



Jewish Slavery *in Antiquity*

CATHERINE HEZSER



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Tel Aviv

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Abbreviations

<i>Ant.</i>	<i>Antiquitates</i> , by Flavius Josephus
b.	Babylonian Talmud (Bavli), citations according to tractate and folio in the Vilna edn., 1880–6
<i>Bell.</i>	<i>Bellum Iudaicum</i> , by Flavius Josephus
<i>C. Ap.</i>	<i>Contra Apionem</i> , by Flavius Josephus
<i>CIJ</i>	<i>Corpus Inscriptionum Iudaicarum</i> , ed. J.-B. Frey, Paris, 1936–52
<i>CIRB</i>	<i>Corpus Inscriptionum Regni Bosporani</i>
C.J.	Codex Justinianus
<i>CPI</i>	<i>Corpus Papyrorum Iudaicarum</i> , ed. V. A. Tcherikover and A. Fuks, Cambridge, Mass., and London, 1957–64
C.Th.	Codex Theodosianus
<i>Dig.</i>	<i>Digest</i> of Justinian
Diod. Sic.	Diodorus Siculus
Exod. R.	Midrash Exodus Rabbah, citations according to the Vilna edn., 1887, repr. Jerusalem, 1969–70
Gen. R.	Midrash Genesis Rabbah, citations according to <i>Midrash Bereshit Rabba</i> , ed. J. Theodor and H. Albeck, 2nd edn., Jerusalem, 1996
<i>ILS</i>	<i>Inscriptiones Latinae Selectae</i> , ed. H. Dessau
Jos. As.	Joseph and Aseneth
Josephus	Flavius Josephus, citations according to H. S. J. Thackeray <i>et al.</i> , Loeb Classical Library edn., Cambridge, Mass., and London, 1986–93

Lev. R.	Midrash Leviticus Rabbah, citations according to <i>Midrash Wayyikra Rabbah</i> , ed. M. Margulies, 3rd edn., New York and Jerusalem, 1993
M.	Mishnah, citations according to tractate and chapter in <i>Shishah Sidre Mishnah</i> , ed. H. Albeck, Jerusalem, 1952–9, repr. 1988
Macc.	Book of Maccabees
Mekh.	Mekhilta de Rabbi Yishmael, citations according to the H. S. Horowitz and I. Rabin 2nd edn., Jerusalem, 1970
Pes. R.	Pesiqta Rabbati, citations according to <i>Pesiqta Rabbati: A Synoptic Edition of Pesiqta Rabbati Based Upon all Extant Manuscripts and the Editio Princeps</i> , ed. Rivka Ulmer, Atlanta, 1997
Philo	Philo of Alexandria, citations according to <i>Philonis Alexandrini Opera quae supersunt</i> , ed. L. Cohn, 2nd edn., Berlin, 1963
Pnei Moshe	Rabbi Moshe Margolis' commentary on the Palestinian Talmud (in the margins of the printed editions)
P. Oxy.	Papyrus Oxyrhynchus
PRK	Pesiqta de Rav Kahana, citations according to the B. Mandelbaum 2nd edn., New York, 1987
Sap. Sal.	Sapientia Salomonis
SEG	<i>Supplementum Epigraphicum Graecum</i>
Sib. Or.	Sibylline Oracles
Sifra	Sifra, citations according to the I. H. Weiss edn., Vienna, 1862, repr. New York, 1947
Sifre Deut.	Sifre Deuteronomy, citations according to the L. Finkelstein edn., Berlin, 1939, repr. New York, 1969
Sifre Num.	Sifre Numbers, citations according to the H. S. Horowitz edn., Jerusalem, 1966
Sir.	Ben Sirach
T.	Tosefta, citations according to tractate and chapter in <i>The Tosefta. The Orders of Zeraim, Moed, Nashim, and Nezikin</i> , ed. S. Lieberman, New York, 1955–88; <i>Tosephta</i> , ed. M. S. Zuckerman, Jerusalem, 1970

Tanh. B.	Midrash Tanhuma, S. Buber edn., Vilna, 1885, repr. New York, 1946
Test. Abr.	Testament of Abraham
Test. Iss.	Testament of Issachar
Test. Jos.	Testament of Joseph
Test. Jud.	Testament of Judah
Test. Naph.	Testament of Naphtali
y.	Palestinian Talmud (Yerushalmi), citations according to tractate, chapter, and folio in the Venice edn., 1522–3

Rabbinic texts are abbreviated in accordance with Günter Stemberger, *Introduction to the Talmud and Midrash*, 2nd edn., Edinburgh, 1996. The abbreviated titles of the works of Greek and Roman authors can be found in H. G. Liddell and R. Scott, *A Greek–English Lexicon*, 9th edn., Oxford, 1996.

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Introduction

WHILE many books and articles have been written on slavery in Graeco-Roman society and on ancient Christian attitudes toward slaves, a detailed examination of slavery in ancient Judaism is still a desideratum. This study examines ancient Jewish discourse on slavery in the context of Graeco-Roman literary, legal, and documentary writings and on the basis of the social, economic, and political circumstances under which Jews lived. It shows that for ancient Jews just as for Greeks and Romans slavery was an everyday experience whose existence was taken for granted, whose practicalities were discussed by legal scholars, and which was repeatedly alluded to in literary, philosophical, and historiographic works. In late antiquity, when the employment of slaves in agriculture was supplemented by other types of labour, domestic slavery prevailed. The image, function, and treatment of slaves within the ancient Jewish household will therefore be analysed alongside slavery's role within the ancient Jewish economy. Slavery also had a large symbolic significance in antiquity. The particular ways in which Jews used slave metaphors are very revealing with regard to the religious, social, and political concerns of ancient Jewish society.

CONTEMPORARY RELEVANCE

The question about Jewish involvement in the Atlantic slave trade has stirred up a popular debate which led to an upsurge of scholarly writing on the issue.¹ Partly in response to the Nation of Islam's claim that

¹ See David Brian Davis, *In the Image of God: Religion, Moral Values, and Our Heritage of Slavery*, New Haven and London 2001, 63–72.

Jewish ship owners and merchants dominated the slave trade,² historians have examined the relevant source material in order to determine to what extent Jews actually participated in and profited from the enslavement of Africans and their transfer to the United States. They have shown that the claim of a large Jewish participation or even domination of that trade is not only exaggerated but entirely wrong.³ Although a few Jewish merchants played a significant role in the slave trade, very few of the ships which brought slaves to America were owned or co-owned by Jews.⁴ While it seems that as many Jewish as non-Jewish city dwellers employed domestic slaves, almost all plantation owners who used large numbers of slaves for agricultural work were non-Jews.⁵ Therefore slavery seems to have had little if any impact on the economic development of Jews living in the United States. Whether ethical concerns made Jews refrain from taking full advantage of slave labour remains an open question, while Jewish support of the Black Liberation movement is well known.⁶

If modern Jews differed from non-Jews in the practice of slavery and attitudes towards slaves and slavery, such differences may also have existed in antiquity. It is the goal of this book to examine the differences and similarities between ancient Jewish, Graeco-Roman, and early

² This claim was expressed in 'The Secret Relationship Between Blacks and Jews', published anonymously in 1991. For a critical examination of the arguments brought forth in this text see Harold Brackman, *Ministry of Lies: The Truth Behind the Nation of Islam's 'The Secret Relationship Between Blacks and Jews'*, New York 1994; Saul S. Friedman, *Jews and the American Slave Trade*, New Brunswick, NJ, 1998, 1–15.

³ See most recently Eli Faber, *Jews, Slaves, and the Slave Trade: Setting the Record Straight*, New York 1998, 143–6 and Friedman, *Jews*, 89–102. See also Seymour Drescher, 'The Role of Jews in the Atlantic Slave Trade', *Immigrants and Minorities*, 12 (1993), 113–25.

⁴ See the tables in Faber, *Jews*, 165–74.

⁵ See the detailed examination of Jewish slave ownership in different US regions in Friedman, *Jews*, 108–98. See also Faber, *Jews*, 138–42.

⁶ See especially Hasia R. Diner, *In the Almost Promised Land: American Jews and Blacks, 1915–1935*, Westport 1977, who emphasizes the strong support given to the Afro-American cause by Jewish journalists, rabbis, social activists, and philanthropists between 1880 and 1935. On Black–Jewish relations in the United States see also the articles in Jack Salzman and Cornel West (eds.), *Struggles in the Promised Land: Toward a History of Black–Jewish Relations in the United States*, New York 1997, and V. P. Franklin et al. (eds.), *African Americans and Jews in the Twentieth Century. Studies in Convergence and Conflict*, Columbia 1998. For a survey of recent scholarship on the issue see Davis, *Image*, 73–91.

Christian society in this regard. Similarities may indicate to what extent Jews had adopted the customs and values of the surrounding Graeco-Roman culture; differences may be based on the particular religious and moral values and the social, economic, and political circumstances under which Jews lived.

TRADITIONAL SCHOLARSHIP

In the past it has generally been assumed that slavery played a minor role amongst ancient Jews, at least as far as Jewish slaves owned by Jewish owners are concerned. It has been argued that from biblical times onwards Jews would be held not as slaves but as bondsmen or temporary servants of other Jews, and that they were customarily manumitted in the seventh year. It was furthermore suggested that for moral reasons Jews would treat all of their slaves in a more humane way than other people did. From the time of the Babylonian Exile onwards Jews were believed to have refrained from owning (Jewish) slaves, so that by the first centuries CE slavery had become a topic of theoretical discussion only, with limited relevance for the everyday life of the Jews amongst whom rabbis lived.

Moses Mielziner was one of the earliest scholars who addressed the topic of slavery in ancient Jewish society. In his monograph published in German in 1859 he stressed that no ancient religion and jurisdiction was as much opposed to slavery as the Mosaic one, and no ancient people was as much inclined to abolish slavery as the Israelites.⁷ Since ancient Israelite religion put so much emphasis on the idea that human beings were created in the image of God and was concerned about legal justice and care for the poor and destitute, and since Israelites had experienced slavery themselves under the Pharaoh in Egypt, Mielziner considered it self-evident that the abolishment of slavery would be the goal Jews had always been striving for.⁸ In biblical times slavery was so much part of the ancient economy that it persisted for some time

⁷ See Moses Mielziner, *Die Verhältnisse der Sklaven bei den alten Hebräern, nach biblischen und talmudischen Quellen dargestellt. Ein Beitrag zur hebräisch-jüdischen Alterthumskunde*, Copenhagen 1859, 7.

⁸ Ibid.

amongst Israelites, who nevertheless prepared its abrogation and removed its inhuman traits.⁹ For example, the enslavement of fellow-Israelites was limited to such a short period of time that it could hardly be called slavery any more; Israelite ‘bondsmen’ were to be treated as day labourers rather than slaves; all slaves were granted a Sabbath day of rest, irrespective of their Israelite or foreign origin. According to Mielziner, biblical Israelite religion should therefore be seen as the first step towards a general abolition of slavery in modern times.¹⁰

Like Mielziner, Grünfeld and Farbstein, whose studies are also written in German and appeared in 1886 and 1896, respectively, recognized a humanitarian attitude towards slaves already in the Hebrew Bible. Grünfeld argued that in contrast to other ancient peoples the Israelites saw slaves as fellow human beings, children of the same divine father, who deserved to be treated in a just and humane way.¹¹ According to Farbstein, Jews could only be debt servants but not slaves of fellow-Jews.¹² He assumes that when rabbinic sources mention slaves, they had only non-Jewish slaves in mind.¹³ Samuel Krauss, who addresses the topic of slavery in the second volume of his *Talmudische Archäologie*, writes in much the same vein. In the talmudic period Jews sold themselves or their family members into debt slavery in emergency situations only. If they sold themselves to Jews, they would not be treated as slaves and would be released after a relatively short period of time.¹⁴ After the Babylonian Exile, that is, throughout Second Temple and rabbinic times, the enslavement of Jews by other Jews was not practised any more, so that literary references to Jewish slaves are of a merely theoretical nature or reflect earlier biblical circumstances.¹⁵ If the Talmud speaks about the sale or treatment of slaves, these slaves must have been gentiles.¹⁶ These gentile slaves were never treated in a humiliating way,

⁹ See Mielziner, *Die Verhältnisse der Sklaven bei den alten Hebräern*, 8–9.

¹⁰ Ibid. 10.

¹¹ See Richard Grünfeld, *Die Stellung der Sklaven bei den Juden nach biblischen und talmudischen Quellen*, part 1, Doctoral dissertation, Jena 1886, 7–8.

¹² See David Farbstein, *Das Recht der freien und der unfreien Arbeiter nach jüdisch-talmudischem Recht verglichen mit dem antiken, speciell mit dem römischen Recht*, Frankfurt 1896, 9–10.

¹³ Ibid. 11.

¹⁴ See Samuel Krauss, *Talmudische Archäologie*, vol. 2, Hildesheim 1966 (1st pub. Leipzig, 1911), 83.

¹⁵ Ibid. ¹⁶ Ibid. 84.

but lived side by side with their masters, who almost regarded them as equals.¹⁷

All of these scholars wrote about slavery in the second half of the nineteenth century, at the time of Jewish emancipation and assimilation, when Jews tried to become socially integrated into and accepted by western European society. In Germany as in other western countries Jews lived as a minority amongst mostly secularized Christians. By emphasizing the humanitarian aspects and moral values of ancient Judaism, Mielziner, Grünfeld, Farbstein, and Krauss argued that the Jewish tradition was not inferior to early Christian teachings on slaves and slavery, that it was even more advanced and a precursor of the modern abolition movement. They thereby tried to refute centuries-old anti-Jewish arguments, according to which Christianity was morally superior to Judaism, and to legitimize the equal legal, social, and economic treatment of Jews within western society.¹⁸

CRITICAL SCHOLARSHIP

More critical examinations of slavery in Second Temple and rabbinic Judaism were presented by Solomon Zeitlin and Ephaim Urbach at the beginning of the 1960s, at a time when socio-economic issues became part of the public agenda and New Testament scholars began focusing on the social teachings of early Christianity.

Both Urbach and Zeitlin believed that slavery existed amongst Jews in post-exilic, Hellenistic and Roman times, and that Jewish slave owners did, to a certain extent, employ both Jewish and gentile slaves throughout this period. Zeitlin assumes that only debt slavery ceased amongst Jews after the Babylonian exile, although Philo and the gospels provide contradictory evidence.¹⁹ While slavery prevailed and was part

¹⁷ Ibid. 89–91.

¹⁸ See Michael A. Meyer, 'Reform Jewish Thinkers and their German Intellectual Context', in J. Reinharz and W. Schatzberg (eds.), *The Jewish Response to German Culture: From the Enlightenment to the Second World War*, Hanover and London 1985, 69: 'Thus, instead of being the religion of no morality—as Kant defined it—the Reformers sought to present Judaism as the religion most exclusively concerned with morality, and hence most worthy of the future'.

¹⁹ See Solomon Zeitlin, 'Slavery During the Second Commonwealth and the Tannaitic Period', *Jewish Quarterly Review*, 53 (1962–3) 194–7. Zeitlin explains this contradiction with reference to the distinction between theory and practice, see *ibid.* 197.

of the Hellenistic and Roman economic system to which Jews had to accommodate themselves,²⁰ for ethical reasons Jews abstained from the harsh treatment of slaves which was common amongst other nations.²¹

Like Zeitlin, Urbach stresses the omnipresence of slavery in antiquity: 'The whole of ancient society was based upon the presence of slaves as an element within it, and slavery was taken for granted as a factor basic to political, economic, and social life.'²² Jewish society did not constitute an exception in this regard. Urbach criticizes the ways in which earlier scholars, who argued that Jewish enslavement by Jewish slave owners ceased after the Babylonian exile, disregarded a large amount of rabbinic evidence or misinterpreted it by viewing it as a reflection of circumstances in First Temple times.²³ The question, 'which *halakhot* are hypothetical only and which were of current practical importance at the time of their formulation, and at what point did each of these two classes cease to be operative',²⁴ is important, but the way in which Urbach arrives at an answer is not entirely clear. He thinks that, with the exception of a few criminals sold by the court, the phenomenon of Jews enslaved to fellow-Jews occurred in the land of Israel in pre-Maccabean times only, at a time when few non-Jewish slaves were available to Jewish estate owners.²⁵ From Maccabean times onwards, conquests in foreign territories supplied Judaeans with gentile slaves. Therefore Urbach assumes that the literary sources from that period onwards usually have non-Jewish slaves in mind.²⁶ As far as rabbinic texts are concerned, Palestinian sources which mention Jewish slaves of Jewish slave owners are seen as reflections of pre-Maccabean times,²⁷ whereas references to gentile slaves are considered evidence of contemporary Jewish slave ownership. This distinction, which rests on flimsy historical arguments, is not very convincing. Against the assumptions of

²⁰ See Zeitlin, 'Slavery', 198.

²¹ Ibid.

²² Ephraim E. Urbach, 'The Laws Regarding Slavery as a Source for Social History of the Period of the Second Temple, the Mishnah and Talmud', in J. G. Weiss (ed.), *Papers of the Institute of Jewish Studies, University College London*, vol. 1, Jerusalem 1964, 4.

²³ Ibid. 3.

²⁴ Ibid. 5.

²⁵ Ibid. 9–31.

²⁶ Ibid. 31.

²⁷ He considers the situation to have been different in Babylonia, *ibid.* 87–8: 'And yet, at the very time when we do not find even the flimsiest evidence for the actual practice within Jewish Palestine of the institution of Hebrew slavery to fellow-Jews, there is explicit testimony in fourth century Babylonia to its prevalence in the *entourage* of wealthy rabbinic circles'.

earlier scholars Urbach emphasizes, however, that in none of the sources 'is there the slightest suggestion of any notions of the abolition of slavery. On the contrary, the fundamental distinction between bond and free is present throughout. This basic fact, combined with political and economic interests, proved the decisive one.'²⁸

SLAVERY IN JEWISH AND GRAECO-ROMAN SOCIETY

While Urbach and Zeitlin had already pointed out that the general social and economic structures in which Jews lived necessitated their employment of slaves, Dale Martin has taken this argument one step further by maintaining that therefore there is no reason to distinguish between slavery in Jewish and Graeco-Roman society:

Jewishness itself had little if any relevance for the structures of slavery amongst Jews. Jews both had slaves and freedpersons and were slaves and freedpersons. Slavery among Jews of the Greco-Roman period did not differ from the slave structures of those people among whom Jews lived. The relevant factors for slave structures and the existence of slavery itself were geographical and socio-economic and had little if anything to do with ethnicity or religion.²⁹

His examination of slavery amongst Jews is based on epigraphic and papyrological material only, in which slaves—and Jews—are rarely identified as such. On the basis of this material he reaches the conclusion that 'Jewish slaves and slave owners are doubly invisible in many of our sources: we may know that they are slaves or owners but not that they are Jews; we may know that they are Jews but not that they are slaves or owners'.³⁰

With reference to McCracken Flesher's study of slave terminology in the Mishnah Martin maintains that ancient Jewish literary sources do not reveal any particularities with regard to the subject at hand.³¹ McCracken Flesher had shown that the Mishnah rarely distinguishes between Hebrew and foreign slaves but is interested in the generic

²⁸ Ibid. 94.

²⁹ Dale B. Martin, 'Slavery and the Ancient Jewish Family', in Shaye J. D. Cohen (ed.), *The Jewish Family in Antiquity*, Brown Judaic Studies 289, Atlanta 1993, 113.

³⁰ Ibid. 114.

³¹ Ibid. 115–16.

category of slaves only. In the Mishnah all slaves, whether of Jewish or non-Jewish origin, are distinguished from freedmen and freeborn Israelites.³² Except for a few quotations from and paraphrases of the Bible, no special rulings concerning Hebrew slaves seem to have been maintained or issued by Mishnaic rabbis. One may assume that at that time Jewish and gentile slaves were treated in much the same way: 'For the Mishnah's framers, slavery cancels out the bondman's—and therefore the freedman's—previous identity... No clue remains to indicate even his ancestral background, not even to reveal whether he was originally an Israelite or a foreigner. The Mishnah's framers ignore the distinction of Scripture...'³³ If the ethnic distinction was abolished by rabbis, earlier scholars' assumption that in (post-biblical and) rabbinic times the biblical rules concerning Hebrew slaves—their manumission in the seventh year and their treatment as 'bondsmen' rather than slaves—were still practised must be dismissed.

SOCIOLOGICAL PERSPECTIVES

Whereas the general social and economic factors which governed the institution and practice of slavery may have been similar in Roman Italy and in the provinces, an issue which has to be examined in detail before it can be posited with any certainty, the discourse on slavery, popular attitudes toward slaves and the treatment of slaves by their owners are likely to have varied from one society to the next. As Orlando Patterson has pointed out, even though 'the constituent elements of slavery are the same for all kinds of social orders, the fact remains that this specific configuration of elements will be understood differently in different socioeconomic systems. Any attempt to understand comparatively the nature of slavery, or any other social process, if it fails to take account of such contextual variations, must remain of limited value.'³⁴

Sociologists have pointed out that all slave-owning societies share a number of common elements as the basis on which differences emerge.

³² Paul Virgil McCracken Flesher, *Oxen, Women, or Citizens? Slaves in the System of the Mishnah*, Brown Judaic Studies 143, Atlanta 1988, 35–6.

³³ Ibid. 39.

³⁴ Orlando Patterson, *Slavery and Social Death: A Comparative Study*, Cambridge, Mass., and London 1982, 26–7.

A slave-owning society is a society in which slavery has become institutionalized, irrespective of the respective quantity of slaves and their significance for the economy: 'Slavery exists as a social system only if a distinct class of individuals with the same state is constituted and renewed continually and institutionally so that, since its functions are permanently ensured, the relations of exploitation and the class which benefits from them are also renewed as such, regularly and continually.'³⁵

There is no doubt that slavery existed as an institutionalized system in Roman Palestine and many other provinces just as it did in Roman Italy, even if mass slavery was a particularly Roman phenomenon.³⁶ All ancient agricultural societies needed farmhands, and the degree to which slave labour was employed depended on the size of the land and the availability of the various types of labour, as will be discussed in more detail below. Agricultural societies are very close-knit and based on continuity from one generation to the next.³⁷ The emphasis on 'con-generation': the growing-up of individuals together and in relation to each other' had as its counterpoint the image of the alien or outsider, who lacked any ancestral and communal bonds and could be exploited without threatening the community with disintegration.³⁸

Slaves could either be foreigners, who were captured in wars and taken away from their home country, or they were people on the margins of one's own society, who had become so poor that they had no other way to survive besides enslaving themselves or their children.³⁹ In both cases death was the only alternative. The enslaved person therefore owed his or her life to the master and was completely dependent on him. It seems that in all societies, not only in ancient Rome and Palestine, the majority of slaves were recruited from outside, that is, they

³⁵ Claude Meillassoux, *The Anthropology of Slavery: The Womb of Iron and Gold*, Chicago 1991, 99.

³⁶ On mass slavery in Roman Italy in imperial times see Keith Hopkins, *Conquerors and Slaves: Sociological Studies in Roman History*, Cambridge 1978, 8–13.

³⁷ See Meillassoux, *Anthropology*, 24–5.

³⁸ *Ibid.* 26.

³⁹ According to Meillassoux, *ibid.* 27, 'the social assimilation of poor relatives' may be 'so difficult' that they 'were rather sold as slaves to slave-traders'. See also Patterson, *Slavery*, 39: 'In almost all premodern societies, at least some slaves were locally recruited. The problems these slaves posed were no different from those presented by the more dramatically disrupted captives.'

were not originally members of the society which took advantage of their labour. On a local level exclusion from the prerogatives attached to a freeborn person's social status 'can be applied only... to individuals who are exceptions in a domestic society under normal conditions'.⁴⁰ Therefore Roman citizenship was generally considered incompatible with slavery, while foreign captives were deliberately used as slaves. Although slaves of Jewish origin were certainly held by Jewish masters in antiquity, rabbis considered enslavement a reversal of the Exodus experience.⁴¹ Similarly, medieval Christians and Muslims refrained from enslaving co-religionists, notwithstanding the fact that amongst them, too, 'many ways were found to get around this injunction'.⁴²

Irrespective of the slave's local or foreign origin, his or her state was characterized by what is called total alienation. The first step toward this alienation was the captured or sold person's desocialization.⁴³ He was taken away from and/or no longer considered part of the social group from which he originated. All ancestral and kinship ties were severed, whereas new ties could not be established. Whether he was introduced into a new culture and society or remained within his land of origin, the slave was seen as an alien by the insiders who were linked by kinship or social ties. Removed from his own milieu he had lost his ethnic, national, and religious heritage and was socially dead.⁴⁴ The slave was depersonalized by being given a new name and treated like a commodity.⁴⁵ This state also implied a desexualization: without power and authority the male slave was not considered a proper man; by being assigned male tasks outside of the domestic sphere the female slave functioned outside role expectations associated with women.⁴⁶ Further-

⁴⁰ Meillassoux, *Anthropology*, 27.

⁴¹ See Catherine Hezser, 'The Social Status of Slaves in the Talmud Yerushalmi and in Graeco-Roman Society', in Peter Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 3, Texts and Studies in Ancient Judaism 93, Tübingen 2002, 108.

⁴² See Patterson, *Slavery*, 41.

⁴³ See Meillassoux, *Anthropology*, 101–7.

⁴⁴ Ibid. 106 and Patterson, *Slavery*, 38.

⁴⁵ On the renaming of slaves see Sandra R. Joshel, *Work, Identity, and Legal Status at Rome. A Study of the Occupational Inscriptions*, Norman and London 1992, 35–7: names reflected a person's identity by indicating his legal status and family ties. In Roman society 'filiation marked the legitimacy of the freeborn' and 'was evidence of his submission to the authority of a father, which brought with it a rightful place in society and marked him as an individual with a family of origin' (35). By contrast, 'the slave's name was a badge of kinlessness and non-membership in any legitimate social order' (36).

⁴⁶ See Meillassoux, *Anthropology*, 109–11.

more, slaves were decivilized, since 'their exclusive dependence on a single individual distinguished slaves from all other members of the collectivity' and prevented them from becoming proper community members.⁴⁷ 'Their inability to penetrate the network of social relations which made up the person, the kin or the citizen rendered them "neutral" in all these respects.'⁴⁸

Slaves' neutrality made them flexible and usable in various contexts: 'Because slaves were natally alienated, they could be used in ways not possible with even the most dominated of non-slave subordinates with natal claims.'⁴⁹ As extensions of their master but without the latter's legal claims slaves could, for example, be used as intermediaries in business transactions. They would be used as collectors of debts owed by the master's clients and as supervisors of other slaves. Masters could exert direct control over their slaves but also use them indirectly to dominate others.⁵⁰ Since slaves had exclusive ties to their master only, they could not resort to legal support or the help of other free people; they were subject to their master's coercion and to his punishment in case of disobedience. One of the main differences between slaves and non-slaves is that the latter always possess certain rights with which to protect themselves from the power of the *paterfamilias* or employer. The master's power over the slave, on the other hand, was total: he 'had power over all aspects of his slave's life'.⁵¹

It goes without saying that the slave lacked honour and existed outside or at the very bottom of the social hierarchy. He could not hold public office, although some slaves' actual public influence as advisers or secretaries of prominent masters could have been great. Differences in slaves' ethnic origins, roles, functions, and living conditions prevented them from identifying with other slaves and from developing group solidarity: 'Since improvements in their lot depended only on their master, they refused solidarity, which would link them to the least privileged in their midst.'⁵² This lack of group solidarity was

⁴⁷ Ibid. 113.

⁴⁸ Ibid. 115. Patterson, *Slavery*, 45, is correct in emphasizing that the slave 'remained nevertheless an element of society' at whose margins he existed: 'Although the slave is socially a nonperson and exists in a marginal state of social death, he is not an outcaste' (48).

⁴⁹ Patterson, *Slavery*, 32.

⁵⁰ Cf. *ibid.* 33.

⁵¹ Ibid. 26.

⁵² Meillassoux, *Anthropology*, 129.

advantageous for the masters, since it prevented the occurrence of slave uprisings and revolts.

On the basis of these sociological insights into the conditions of slavehood and the structure of slavery in all slave-owning societies differences between distinct ancient societies and cultures in different periods of time can be explored. One may assume that differences ensued, for example, in the specific ways in which slaves were employed and treated by their masters and in popular attitudes toward them. In some societies slaves would constitute the large majority of the agricultural work force. In others farming was mostly done by tenants and free labourers, whereas slaves would be employed as domestics, secretaries, merchants, and businessmen. Popular attitudes toward slaves may have differed in accordance with the social, political, and economic situation and the religious, moral, and philosophical tradition of the respective group. Societies which were subjected to the authority of other powers, a situation which was considered similar to enslavement in antiquity, may have felt differently about slaves from members of imperialist systems. Within one particular society members of different social strata may have perceived slavery in different ways, identifying with slaves' plight, trying to distinguish themselves from them, treating them in a humane way, or viewing them as mere tools to increase their wealth.

AVAILABLE SOURCES

The main obstacle to any study of slavery in antiquity is the one-sided perspective of the sources. The large majority of sources on ancient slavery, especially as far as Jewish society is concerned, are literary in nature. This literature was formulated, transmitted, and edited by the intellectual elite of ancient Jewish society, that is, by priests, scribes, and rabbis. In contrast to Graeco-Roman literary sources, whose authors were all members of the upper strata of society, the Jewish intellectual elite did not necessarily belong to that group, however. In antiquity, land-ownership determined one's membership in the upper classes, but except for the patriarchs and some prominent rabbinic families, scribes and rabbis seem to have rarely owned large areas of land and accumu-

lated wealth.⁵³ They worked in a variety of professions, for example, as merchants and artisans, which are usually identified with the middle strata of society. One may assume that their variant and relatively lower social status and ordinary professions—the very fact that many of them had to work to make a living—allowed them to view slavery from a different perspective compared with Roman upper-class writers who belonged to the leisured class. Although ancient Jewish literary sources do not reflect the upper-class view only but were more variegated in their perspective, they were nevertheless written by freeborn people who distinguished themselves from slaves. No sources formulated or written from the viewpoint of slaves themselves have come down to us.

This study examines Jewish attitudes towards and involvement in slavery in the Hellenistic and Roman periods in areas which were directly influenced by Graeco-Roman culture. The available source material is unevenly distributed, however, and this phenomenon leads to a concentration on Roman Palestine from where the majority of literary sources stem. Philo of Alexandria and some other Greek Jewish writers reflect the situation of Jews in Egypt, but the Qumran material, Josephus, and rabbinic literature all relate to the land of Israel. Only very few papyri and inscriptions mention slaves or freedmen or -women, and the Jewish origin of the respective texts often remains doubtful. Most of the epigraphic material, which consists of either funerary or donors' inscriptions, comes from Rome and Roman Italy, with the exception of the Bosphorus kingdom, from where a relatively large number of (possibly) Jewish manumission inscriptions, dated to the first to early third century CE, stem.⁵⁴ Non-Jewish sources dealing with Jewish slave ownership consist of early Christian texts, such as the New Testament gospels, which contain a number of slave parables, and late Roman imperial legislation from the time of Constantine and his successors prohibiting the Jewish possession of Christian slaves. The question whether and to what extent these literary and legal texts reflect

⁵³ See Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine*, Texts and Studies in Ancient Judaism 66, Tübingen 1997, 258–64, in contrast to Hayim Lapin, 'Rabbis and Cities: Some Aspects of the Rabbinic Movement in its Graeco-Roman Environment', in Peter Schäfer and Catherine Hezser (eds.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 2, Texts and Studies in Ancient Judaism 79, Tübingen 2000, 53.

⁵⁴ On these inscriptions see E. Leigh Gibson, *The Jewish Manumission Inscriptions of the Bosphorus Kingdom*, Tübingen 1999, 98–108.

actual circumstances or whether they should rather be seen as expressions of their authors' ideology has to be investigated. Greek and Roman writers were hardly interested in Jewish slave ownership. On the one hand, they seem to have taken the existence of wealthy Jewish slave owners for granted. On the other hand, they saw Jews—and other so-called barbarians—as slaves subjected or subjectable to their own authority.⁵⁵

By far the largest amount of material on Jews and slavery in antiquity is to be found in rabbinic documents.⁵⁶ Both tannaitic and amoraic writings contain hundreds of legal and narrative texts which directly address the issue of slaves and slave ownership.⁵⁷ These texts were not formulated and transmitted for historiographic purposes, though. They can therefore not be used as direct historical reports on ancient slavery. One may assume that the first and foremost *Sitz im Leben* of the texts was the theoretical discussion of these topics in rabbinic circles, whether amongst rabbinic colleagues or amongst rabbis and their students. In addition, rabbinic texts were transmitted in mostly oral form for many generations before they were eventually included in the documents in which they have come down to us.⁵⁸ During their long period of transmission, they were reformulated and adapted to the respective situations and circumstances in which they were reverberated. In the course of this process changes, such as expansions and abbreviations, alterations of personal and place-names, and loss of details occurred. The exact dating of rabbinic texts is impossible, and all attempts which go beyond the mere identification of tannaitic, amoraic, and stammatitic

⁵⁵ See Moses I. Finley, *Ancient Slavery and Modern Ideology*, London 1980, 119 and the references *ibid.* 177 n. 99.

⁵⁶ For an introduction to rabbinic writings, their contents, development, and dating see Günter Stemberger, *Introduction to the Talmud and Midrash*, trans. and ed. Markus Bockmuehl, 2nd edn. Edinburgh 1996. On text editions and methodology see Catherine Hezser, 'Classical Rabbinic Literature', in Martin Goodman (ed.), *The Oxford Handbook of Jewish Studies*, Oxford 2002, 115–40.

⁵⁷ Tannaitic writings, such as the Mishnah and Tosefta and tannaitic Midrashim (e.g. Mekhilta, Sifra, Sifre Deut.), contain traditions of and about rabbis who lived in the 1st and 2nd cent. CE. The editing of the documents may have taken place later, though. Amoraic writings, such as the Talmud Yerushalmi and amoraic Midrashim (e.g. Gen. R., Lev. R.), also contain traditions of and about rabbis of the 3rd to 5th cent. CE.

⁵⁸ On this process see Catherine Hezser, *Jewish Literacy in Roman Palestine*, Texts and Studies in Ancient Judaism 81, Tübingen 2001, 425–35.

(editorial) material remain highly hypothetical.⁵⁹ Therefore only very broad chronological distinctions can be made.

Despite these textual fluctuations and uncertainties certain patterns and continuities can be discerned. Although no historiographical and biographical information can be gained from rabbinic texts, these texts lend themselves to social-historical investigations and studies of rabbinic legal theory. Sociology is interested in recurrent patterns and structures rather than in individual persons and one-time events. If a number of independent rabbinic traditions from different *sugyot*, tractates and documents transmitted in different literary forms all point to the same phenomenon, such as, for example, particular ways of acquiring and manumitting slaves, it is likely that these texts have some basis in reality. If this particular phenomenon is mentioned in theoretical legal texts only, it can be considered part of rabbinic theorizing about slaves which may have been adopted by rabbis' adherents only. These texts tell us a lot about rabbinic legal theorizing, but this theorizing cannot be considered identical with actual practice in ancient Jewish society.

THE LITERARY-RHETORICAL APPROACH

The gap between theory and practice also applies to the study of slavery in Graeco-Roman society. This has recently led some scholars to focus on the rhetorics of slavery rather than on its actual history and practice. In his book *Slavery and the Roman Literary Imagination* William Fitzgerald examines the ways in which slaves and slavery were represented by Graeco-Roman writers. At the outset he already points to the limitations of these writers' perspective: 'first of all, it is restricted to the perspective of the slave-owners and, secondly, it focuses on the domestic sphere'.⁶⁰ Except for agricultural writers such as Varro, Cato, and Columella, who advise fellow-landowners on how to use slaves and free labourers in the most profitable way, rural slaves 'remain

⁵⁹ On the dating of rabbinic texts and the unreliability of attributions see William Scott Green, 'What's in a Name?—The Problematic of Rabbinic "Biography"', in W. S. Green (ed.), *Approaches to Ancient Judaism: Theory and Practice*, Missoula 1978, 77–96.

⁶⁰ William Fitzgerald, *Slavery and the Roman Literary Imagination*, Cambridge 2000, 2.

an anonymous, faceless mass in the Roman writers'.⁶¹ The frequency with which certain types of slaves are mentioned in the literary sources can therefore not be considered evidence of their actual roles and functions within Roman society. Domestic slaves were mentioned more frequently because they lived and worked in the slave owner's immediate environment, so he would develop closer and more personal ties toward them. Fitzgerald emphasizes that all literature about slavery is ideological: literary stylization serves as 'a means of negotiating the meanings that slavery generated'.⁶² The literary portraits of slaves can mostly be seen as 'fantasy projections of the free, not so much portraits of slaves as others through whom the free could play out their own agenda'.⁶³

THE SOCIAL-HISTORICAL APPROACH

Much of the earlier study of Greek and Roman slavery was social-historical in nature. The foremost representative of this approach was Moses Finley, who examined the political, social, and economic factors for the development of slave societies, the ways in which availability and demand governed the employment of slaves, and the habitual treatment of slaves by their owners.⁶⁴ Finley stressed the total outsider status of the slave, which is succinctly expressed by Plautus in one of his plays, 'Quem patrem, qui servus est?' ('What father, when he is a slave?')⁶⁵ He also pointed to the internal hierarchy amongst slaves, who did not constitute a homogeneous social class distinguishable from other strata of society.⁶⁶

Slaves had no choice but to accommodate to the circumstances in which they found themselves. Philosophy and religion played a major role in this regard.⁶⁷ By emphasizing the irrelevance of one's status in this world and by promising a higher spiritual freedom, Graeco-Roman philosophers and ancient Christian writers enabled slaves to willingly or unwillingly submit to their fate rather than to rebel against their

⁶¹ Fitzgerald, *Slavery*, 3.

⁶² Ibid. 8.

⁶³ Ibid. 11.

⁶⁴ Moses I. Finley (ed.), *Slavery in Classical Antiquity: Views and Controversies*, Cambridge 1960; idem, *Ancient Slavery*; idem, *Economy and Society in Ancient Greece*, London 1981.

⁶⁵ Finley, *Ancient Slavery*, 86 with reference to Plautus, *Captivi* 574.

⁶⁶ Ibid. 77.

⁶⁷ Ibid. 116.

masters. Neither can the idealistic biblical law concerning the release of Hebrew slaves in the seventh year be taken at face value: it is unlikely to have ever been practised.⁶⁸ In his note on Moses Finley's study of slavery Arnaldo Momigliano points out that Finley did not examine the post-biblical Jewish sources on slavery, a desideratum which 'inevitably brought with it a diminished interest on the Christian side'.⁶⁹ He therefore asserts that 'there is a need for re-assessing the position of slaves and slavery in ancient religions, and more generally in ancient intellectual trends'.⁷⁰

Finley's sociological approach has been taken up by a number of other scholars of slavery in the English-speaking world. In his work, *Conquerors and Slaves: Sociological Studies in Roman History*, Keith Hopkins, a student of Finley, examined the factors which led to mass slavery in Roman Italy in imperial times, a phenomenon which had no analogies in other ancient societies except for classical Athens perhaps.⁷¹ He surmises that since the Roman provinces lacked the circumstances which produced mass slavery in Roman Italy, 'in most parts of the Roman empire slavery was of minor importance in production'.⁷² Even if slaves were used in agriculture less frequently than in Italy, however, they may have played an important role in other sectors of society in the provinces as well. Especially in late antiquity slaves seem to have been used mainly for domestic and administrative purposes, as MacMullen has pointed out.⁷³

With regard to the usage of slaves in ancient Egypt Roger Bagnall has suggested examining their place and role within society at large, not just in the economy.⁷⁴ The slaves mentioned in late antique Egyptian papyri 'are almost all household slaves or personal assistants for their master's business dealings'.⁷⁵ Even at times and places where slaves did not have a

⁶⁸ See Finley, *Economy*, 117.

⁶⁹ Arnaldo Momigliano, 'Moses Finley on Slavery', *Slavery and Abolition*, 8 (1987), 2.

⁷⁰ Ibid. 5.

⁷¹ Hopkins, *Conquerors*, 99.

⁷² Ibid.

⁷³ See Ramsay MacMullen, *Changes in the Roman Empire: Essays in the Ordinary*, Princeton 1990, 236 ff., who analysed the situation in various Roman provinces. See also Istvan Hahn, 'Sklaven und Sklavenfrage im politischen Denken der Spätantike', *Klio*, 58 (1976), 460.

⁷⁴ Roger S. Bagnall, 'Slavery and Society in Late Roman Egypt', in Baruch Halpern and Deborah W. Hobson (eds.), *Law, Politics and Society in the Ancient Mediterranean World*, Sheffield 1993, 222.

⁷⁵ Ibid. 233.

large effect on the economy, 'the importance of slave assistance for the ability of a small elite to manage business, civic, and military affairs should not be underrated'.⁷⁶

EPIGRAPHIC AND PAPYROLOGICAL EVIDENCE

Bagnall cautions against drawing any conclusions about the quantity of slaves from the lack of references to slaves in sales contracts and other papyri.⁷⁷ On the basis of the few references to slaves in sales contracts from Ptolemaic times one might assume that few slaves were sold or even owned by Egyptians at that time. The evidence can be misleading, however: 'Slavery was not uncommon in Ptolemaic Egypt, but it generated a documentation which rarely included contracts of sale.'⁷⁸ Slaves are not always identified as such in papyri or inscriptions. Holders of certain occupations such as stewards or supervisors may well have been slaves 'without our being able to detect the fact'.⁷⁹ Bagnall concludes that on the basis of the evidence no quantitative conclusions about the numbers of slaves in Egyptian society can be drawn.⁸⁰ The lack of quantitative data does not diminish the significance of slavery in Egyptian society, however.

These considerations apply to the usage of papyrological and epigraphic evidence for the study of Jewish slavery and slave ownership as well. Fuks has noticed that 'of more than 500 Jewish grave-inscriptions from Rome, not one attests that the deceased was either a slave or a freedman'.⁸¹ On the other hand, Josephus and other literary sources suggest that after Pompey's conquest of Judaea in the first century BCE and in the course of the first and second revolts against Rome thousands of Jewish captives were sold on the slave markets.⁸² Fuks's explanations

⁷⁶ Bagnall, 'Slavery and Society in Late Roman Egypt', 222.

⁷⁷ Ibid. 223. ⁷⁸ Ibid. ⁷⁹ Ibid. 25. ⁸⁰ Ibid. 226.

⁸¹ Gideon Fuks, 'Where Have All the Freedmen Gone? On an Anomaly in the Jewish Grave-Inscriptions from Rome', *Journal of Jewish Studies*, 36 (1985), 30.

⁸² Ibid. 25–8. See also Hans Volkmann, *Die Massenversklavungen der Einwohner eroberter Städte in der hellenistisch-römischen Zeit*, Wiesbaden 1961, 66–71.

for the seeming discrepancy that, on the one hand, a large proportion of the enslaved captives were sold on the slave markets of Syria–Palestine rather than being brought to Rome,⁸³ and that at least 10 per cent of the Jewish grave-inscriptions are those of freedmen, a status indication which he believes was deliberately avoided,⁸⁴ are not sufficient. The epigraphic disappearance of the many thousands of originally Jewish slaves can also be explained in a different way, a way already indicated by Frey in his comments on an inscription from Pompeii whose Jewish origin is doubtful. Frey suggested that Jewish slaves and freedmen at Rome may have had to abandon their religion due to the circumstances in which they found themselves.⁸⁵ Their Roman masters would not have permitted their slaves to keep the Sabbath or other ritual practices, and they would often have renamed their slaves. Consequently, inscriptions mentioning originally Jewish slaves and freedmen would hardly be distinguishable from those of pagan slaves and freedmen, even to the point that the former were buried in pagan cemeteries. This observation is also in agreement with the above-mentioned sociological studies of slavery, which stress the desocialization and denationalization of the slave.⁸⁶

THE LEGAL-HISTORICAL APPROACH

A third approach to ancient slavery, besides the literary-rhetorical and the social-historical one, consists of the examination of slave law. Much of the material on slavery in Graeco-Roman and ancient Jewish sources is legal in nature, a phenomenon which makes the legal approach to the subject especially suitable and useful. As far as Roman slave law is concerned, Ludwig Mitteis, William Buckland, Hermann Nehlsen, and Alan Watson have presented comprehensive examinations of the subject at hand.⁸⁷ Besides investigating the complex and detailed history of Roman jurists' and emperors' legal treatment of slaves, Watson is

⁸³ Ibid. 27.

⁸⁴ Ibid. 32.

⁸⁵ C. P. Jean-Baptiste Frey, *Corpus Inscriptionum Iudaicarum*, vol. 1, Rome 1936, 571, ad no. 52*.

⁸⁶ This issue will be taken up again and discussed in more detail below.

⁸⁷ Ludwig Mitteis, *Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreichs*, Leipzig 1891; William W. Buckland, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge 1970 (reprint

interested in the social, economic, and ideological undercurrents which governed this legislation. He postulates that Roman law, created and promulgated by members of the slave-holding classes, was always on the side of the slave holder rather than actually benefiting the slave and alleviating his situation. The main question always was 'how to maximize the benefits of slavery for the owner'.⁸⁸ Accordingly, legal regulations were meant to solve the following problem: 'What incentives, controls, or penalties are to be given by law to ensure that the slave does the best he can for the owner, best in the sense both of maximizing the profit (economic, social, and political) and of minimizing the risk (economic and physical)?'⁸⁹ For example, laws which seem to limit the slave owner's right to punish and abuse his slave were not really humanitarian in nature; their purpose was rather to preserve the slave's physical power and monetary value for the master's relatives and heirs.⁹⁰

Watson points to the distance between theory and practice in Roman legislation concerning slaves. Even the very issues addressed in the legal sources 'reflect the concern of the lawmakers, not directly that of the rest of the society'.⁹¹ The legal topics did not necessarily arise from problems with slaves which occurred in everyday life. Roman jurists would discuss theoretical cases and possible scenarios which may or may not have happened in the past or happen in the future.⁹² 'They are interested in the legal rules and how they should be interpreted, not with their importance, their frequency of use, or how far they were ignored in practice . . . No distinction appears between their treatment of real cases and hypothetical cases, and usually it is not possible to know in which of these categories a case falls.'⁹³ The same considerations apply to rabbinic legal discussions of slaves and slavery. They, too, must be considered theoretical in the first place, and do not provide direct evidence of actual practice. This consideration leads us back to the literary-rhetorical and

of 1908 edn.); Hermann Nehlsen, *Sklavenrecht zwischen Antike und Mittelalter. Germanisches und römisches Recht in den germanischen Rechtsaufzeichnungen*, vol. 1, Göttingen 1972; Alan Watson, *Roman Slave Law*, Baltimore and London 1987.

⁸⁸ Watson, *Slave Law*, 1.

⁸⁹ Ibid.

⁹⁰ Ibid. 120–1.

⁹¹ Ibid. 115.

⁹² See Catherine Hezser, 'The Codification of Legal Knowledge in Late Antiquity: The Talmud Yerushalmi and Roman Law Codes', in Peter Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 1, Texts and Studies in Ancient Judaism 71, Tübingen 1998, 592–4, on hypothetical continuations of case stories.

⁹³ Watson, *Slave Law*, 115.

the social-historical approaches introduced above. Only if the legal-historical approach is combined with these other two, that is, if the rhetorical and ideological functions of legal statements are analysed, and if legal texts are examined in connection with other, non-legal texts on the same issue, can persuasive conclusions be reached.

As far as comparative studies between ancient Jewish and Roman slave law are concerned, studies on particular issues have already been conducted in the past, but they usually did not take the literary-historical and rhetorical aspects of the respective rabbinic texts into account. Farbstein, whose work can be considered one of the earliest studies in this regard, mostly refers to passages from the Babylonian Talmud as evidence for legal practices in ancient Palestine which he views on the basis of Roman law.⁹⁴ The same lack of distinction between Palestinian rabbinic sources, which are to be seen in the context of Graeco-Roman society and culture, and the Babylonian Talmud, which, as Yaakov Elman has recently emphasized, should be studied in the context of ancient Persian society and Iranian law, distorts the legal studies of certain aspects of slavery conducted by Simon Rubin, Boaz Cohen, and David Daube, notwithstanding the great contributions toward comparative legal studies which these scholars have made.⁹⁵ To avoid this methodological pitfall this study will focus on the ancient Mediterranean regions under direct Graeco-Roman influence, whereas Babylonian rabbinic texts will be referred to only if they provide interesting analogies or alternatives to the primary sources at hand.

STRUCTURE OF THIS STUDY

The book is divided into four parts. The first part deals with the status of slaves within ancient Jewish society. Enslavement constituted a total uprooting from one's family, religion, and society of origin. In rabbinic

⁹⁴ See Farbstein, *Recht*, referred to above, n. 12.

⁹⁵ Simon Rubin, *Das talmudische Recht*, vol. 1: *Personenrecht, die Sklaverei*, Vienna 1920; Boaz Cohen, 'Civil Bondage in Jewish and Roman Law', in *Louis Ginzberg Jubilee Volume*, New York 1945, 113–32; David Daube, 'Two Early Patterns of Manumission', *Journal of Roman Studies*, 36 (1946), 57–75. On the Iranian legal context of the halakhah in the Babylonian Talmud see Yaakov Elman, 'Marriage and Marital Property in Rabbinic and Sasanian Law', in Catherine Hezser (ed.), *Rabbinic Law in its Roman and Near Eastern Context*, Texts and Studies in Ancient Judaism 97, Tübingen 2003, 227–76.

sources, slaves were seen as devoid of relatives and ancestry. Without parents and ancestors their claim to Jewishness could hardly be maintained. While Romans considered slavery incompatible with Roman citizenship, rabbis considered it incompatible with Jewishness: to be the slave of a human master was a reversal of the Exodus experience and a transgression of Jewish monotheistic beliefs. In Jewish as in Graeco-Roman society slaves were seen and treated both as chattel and as human beings. The blurred boundaries between slaves and animals on the one hand and slaves and free persons on the other caused a situation which was fraught with ambiguity. As dependants of the householder not only slaves but also wives and minor children were subjected to his authority. This phenomenon caused certain similarities in their position within the household and society which found expression in the triad 'women, slaves, and minors', familiar from rabbinic texts. Despite certain basic aspects affecting all slaves' position, slaves did not constitute a single status group. The internal hierarchy amongst slaves is hidden by literary texts which portray the slave as the quintessential 'other' from whom freeborn people distinguish themselves.

Since the available literary sources tend to focus on domestic slaves, the second part will investigate the position of slaves within the ancient Jewish family and household. Even at times when tenancy and other forms of free labour predominated, slaves continued to play a significant role within the family economy. By fulfilling a variety of functions within the household, slaves did not only increase the family's wealth, but also established affective bonds with family members which could upset conventional power structures and create interdependencies between slaves and free. Master-slave stories are evidence of the intimate relationships between masters and their favourite slaves. They tell us more about the image of the ideal master and ideal slave, that is, about the slave-holding class's own values, than about actual social behaviours, though. Sexual exploitation of slaves by their masters was rampant in the ancient world. It was one of the ways in which slaves were objectified. The usage of slave concubines also affected the husband-wife relationship. Like the close relationship formed between slave nurses and their nurslings, concubinage loosened the bonds between the primary members of the family. Since children borne by slave mothers would automatically obtain slave status, concubinage relationships kept the number of heirs within limits and thereby helped to maintain the

family property. Whereas Roman slave owners held the power of life and death over their slaves, in Jewish society their rights of punishment seem to have been more limited.

The question of the economic significance of slavery within ancient Jewish society will be addressed in the third part of this work. Due to the limitations of the sources the quantity of slaves owned by Jews cannot be determined any more. Nevertheless, their role and significance in the various economic sectors may be assessed. The agricultural employment of slaves will be seen in the context of and in comparison with other types of farm work, such as that of tenants, small freeholders, and day labourers. The advantages and disadvantages of each type of labour within the respective social, political, and economic circumstances in which Jews lived need to be evaluated. The sources allow us to identify various areas in which slaves were employed. It seems that the flexibility of slaves, which was based on their perception as outsiders and quint-essential others, was one of their greatest economic assets.

The fourth and final part of this study is devoted to the symbolic significance of slaves and slavery in antiquity. The image of the slave could be used religiously, to denote the relationship between human beings and God; psychologically, to describe one's enslavement to emotions and passions which the mind was unable to control; socially, to indicate one's dependence on other people's help; and politically, to denote the deplorable status of being subjected to foreign political powers. All of these usages have left traces in ancient Jewish writing. The religious usage of the slave metaphor, which already appears in the Bible, has been expanded and elaborated in the so-called slave parables, where the king stands for God. The various parables about a king's treatment of his slaves and the comparison between the slave and the son in their relationship to the king can be considered important expressions of rabbinic theology. Finally, in the ancient Jewish adaptation of the Exodus story the symbol of liberation from slavery was applied to the life of every individual Jew, whether slave or free.

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PART I
THE STATUS OF SLAVES

THE status of slaves in ancient Jewish and Roman society was characterized by ambiguity. On the one hand, slaves were considered socially dead, that is, they were seen as total outsiders of society: 'Alienated from all "rights" or claims of birth, he ceased to belong in his own right to any legitimate social order. All slaves experienced, at the very least, a secular excommunication.'¹ Unless they were manumitted, they did not even occupy a place at the very bottom of the social hierarchy. The basic distinction between slaves and free persons governed all areas of political, social, and economic life in the Roman Empire and its provinces. Freeborn men were eager to distinguish themselves from slaves, who lacked the characteristic traits of a male adult Israelite or a Roman citizen. On the other hand, slaves did not form a coherent social class or status group: their roles, functions, and statuses within society were very varied. Individual slaves would often work side-by-side with free persons, they could be better educated and live in better conditions than the free, and they could become wealthy after their manumission. Their skills and expertise could procure them an elevated status within their master's household. If their master was a prominent person, his prominence would raise their status within society as well.

Distinctions between slaves and free persons were sometimes blurred. Although slaves were basically seen as property and compared with cattle, they were also treated as human beings capable of rational thinking and informed decisions. Slaves were not the only members of the household who were dependent on the *paterfamilias*. Wives and children also stood under his authority. In their basic powerlessness and submission under the householder's authority, slaves, women, and minors are often correlated in ancient literary sources. Unlike wives and children, however, slaves lacked any ancestry. They were uprooted from their family, nation, and religion of origin and became members of a denationalized pool of slaves who, since they were seen as culturally neutral, could easily assume the cultural and religious identity of their respective masters. Once they were manumitted, male slaves could become Roman citizens and/or members of the Jewish community. Since their former enslavement would leave a lasting mark, however, freedmen would nevertheless occupy an intermediate position between slaves and freeborn people, a situation which was loaded with ambiguities.

¹ Orlando Patterson, *Slavery and Social Death: A Comparative Study*, Cambridge, Mass., and London 1982, 5. See also Claude Meillassoux, *The Anthropology of Slavery: The Womb of Iron and Gold*, Chicago 1991, 106–7.

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The Denationalization of Slaves

ONE of the characteristic traits of a slave was his denationalization. Slaves had to be removed from their family, culture, and country of origin 'to be introduced and reproduced as aliens in the slave-owning society'.¹ Once he was (re)introduced as an alien, the slave's links to his ancestors and origins were disregarded, and he was not allowed to marry and establish new kinship ties during the period of his enslavement. Orlando Patterson has succinctly described this situation: 'Not only was the slave denied all claims on, and obligations to, his parents and living blood relations but, by extension, all such claims and obligations on his more remote ancestors and on his descendants. He was truly a genealogical isolate. Formally isolated in his social relations with those who lived, he also was culturally isolated from the social heritage of his ancestors.'² The inherited religious and cultural meanings could not be integrated into the slave's life, and new meanings, whether adopted deliberately or compulsorily, did not make him a fully accepted member of the new community, whether Jewish, Roman, or Christian. The slave's alienation from all social ties except for those his master allowed him to maintain, his being a 'blank slate' which his master could inscribe, and his total lack of honour distinguished him from other dependants of the householder and members of the lower strata of society.³

With regard to slaves in Roman society Moses Finley has pointed out that 'the slave was always a deracinated outsider—an outsider first in the sense that he originated from outside the society into which he was

¹ Claude Meillassoux, *The Anthropology of Slavery: The Womb of Iron and Gold*, Chicago 1991, 100.

² Ibid.

³ Cf. ibid. 7. On the relationship between honour and social status see Julian Pitt-Rivers, 'Honour and Social Status', in J. G. Peristiany (ed.), *Honour and Shame: The Values of Mediterranean Society*, London 1965, 19–77; J. Davis, *People of the Mediterranean: An Essay in Comparative Social Anthropology*, London 1977, 89–101.

introduced as a slave, second in the sense that he was denied the most elementary social bonds, kinship.⁴ This way of thinking has an analogy in rabbinic writings, where the slave is denied kinship ties with his family of origin.⁵ The similarity seems to indicate that the view of slaves as fatherless aliens without a genealogy and a past was an intercultural commonplace in the ancient world.

One may assume that the Jewish war captives whom the Romans enslaved during the first and second Jewish revolts against Rome, and who were subsequently brought to Roman Italy, would, to a certain extent, have been familiar with Roman culture from Roman Palestine already. But they would nevertheless be outsiders in an environment permeated by pagan practices, institutions, and the common observance of the emperor cult. Their originally Jewish origin would be irrelevant to their new masters or relevant only insofar as it symbolized the power of Roman imperialism in the East.

Just as Roman jurists thought that being Roman was incompatible with being a slave, rabbis considered being Jewish and a slave a contradiction in terms (see below). Male freeborn Roman citizens' and provincials' self-distinction from slaves assigned slaves a position not even at the margins, but outside of society. During the period of enslavement religious and national origins were considered irrelevant, as Mary Gordon has pointed out: 'The elusiveness of servile nationality, intensified as it is by the rarity of ethnica and the Latinization of native names, has in itself a highly important significance... Intermarriage produced a complete inter-mixture of races... The typical slave of the early empire belonged to neither east nor west: he was a product of Graeco-Roman civilization, an example of Rome's strange power of absorbing and assimilating aliens.'⁶ Only after manumission would a former (male) slave be able to become a Roman citizen or to be considered Jewish. Accordingly, enslavement served as 'a compulsory initiation into a higher culture', whether Jewish or Roman.⁷ As Gordon has emphasized,

⁴ Moses I. Finley, *Ancient Slavery and Modern Ideology*, London 1980, 75.

⁵ See e.g. Sifre Deut. 292: "... a man and his brother" [Deut. 25: 11]: this excludes slaves, since they do not have brothers'.

⁶ Mary L. Gordon, 'The Nationality of Slaves under the Early Roman Empire', *Journal of Roman Studies*, 14 (1924), 110.

⁷ See R. H. Barrow, *Slavery in the Roman Empire*. New York and London, 1968 (1st pub. 1928), 197, quoting J. L. Meyres.

‘the slave had no *patria*, but emancipation gave him not only a city but a home’.⁸

THE BIBLICAL DISTINCTION BETWEEN HEBREW AND CANAANITE SLAVES

The Torah clearly distinguishes between Hebrew and Canaanite slaves with regard to how Israelite owners should treat them and with regard to the envisioned duration of their enslavement. The biblical regulations concerning the Hebrew slave are partly contradictory, however, and to what extent the theoretical rules were actually practised even in biblical times remains uncertain. According to Exod. 21: 2–3, a Hebrew slave shall be released in the seventh year of his service; if he had a wife when he became enslaved, his wife may leave with him. Deut. 15: 12 transmits a similar regulation after discussing the Sabbatical Year rules for fields (cf. Deut. 15: 1 ff.), but does not mention the possible manumission of the slave’s wife.⁹ Instead, Deut. 15: 13–14 suggests that the master should give his slave various gifts upon his release (cattle, grain, wine). Slave holders are reminded of their own liberation from slavery in Egypt as a guideline for their own behaviour towards fellow-Israelites.

The Exodus experience is also recalled in the Levitical slave law (Lev. 25: 42). The authors of Leviticus envisioned the slave as someone who had sold himself into slavery because of his extreme poverty (cf. v. 39). Slave owners are admonished to treat him as if he were a hired labourer (Lev. 25: 40a). Although Leviticus knows of the Sabbatical Year for fields, it does not suggest the release of Hebrew slaves in that year but in the Jubilee Year, together with their children (cf. Lev. 25: 40b–41).

Scholars have offered different solutions for solving the contradictions between the biblical slave laws. Grünfeld understands the Jubilee

⁸ Gordon, ‘Nationality’, 111.

⁹ The Sabbatical Year rules in Deut. 15: 1–11 seem to be a ‘Deuteronomistic construction’ not directly related to the slave law in Deut. 15: 12 ff., see N. P. Lemche, ‘The Manumission of Slaves—The Fallow Year—The Sabbatical Year—The Jubel Year’, *Vetus Testamentum*, 26 (1976), 45: ‘nowhere in Dtn xv 12–18 is there any reference to a fixed seven-year cycle involving a collective manumission at a certain time every seventh year. On the contrary it is quite clear that the slaves had to serve their time without complaints before they could be set free.’

Year ruling of Leviticus as a supplement to the seventh year ruling of Exodus and Deuteronomy: even if the slave has not yet served his master for six years, he must be manumitted at the time of the Jubilee Year.¹⁰ Mendelsohn, on the other hand, believes that the seventh year stipulation in Exodus and Deuteronomy applied to debt slaves only, and that even in their case their masters' observance of the law remains uncertain.¹¹ Jer. 34: 8–16 and Neh. 5: 2–5 'prove that the law of release of Hebrew defaulting debtors, at least in their time, was not enforced'.¹² The same reservations apply to the observance of the law of the Jubilee Year. Mendelsohn suggests that it should rather be seen as 'an integral part of a great land-reform utopia'.¹³ Laws concerning the manumission of slaves with clear social intentions appear in Jer. 34: 8 ff. and Neh. 5: 1–13, but they must be considered 'once-only' measures and are not associated with either the seventh or the Jubilee Year.¹⁴ Like Mendelsohn, Lemche concludes: 'At the time of the Old Testament probably no attempts were made to impose the demands of the Sabbatical and Jubel Years by force'.¹⁵

According to the Torah, no restrictions apply to Israelites' purchase of slaves of other ethnic origins (cf. Lev. 25: 44–5). Such slaves may be given to one's children as an inheritance, that is, they may be enslaved permanently or as long as the master wishes (Lev. 24: 46). No particular precautions have to be taken with regard to their treatment. The Israelite master is allowed to 'treat them as slaves' (ibid.). Unlike Israelite slaves, whose enslavement is seen as a lapse of fortune and a reversal of the Exodus experience (see especially Lev. 25: 42: 'For they are my servants, whom I freed from the land of Egypt; they may not give themselves over into servitude'), a curse rests on certain other nations such as the Canaanites and Gibeonites, a curse which justified their permanent enslavement.

The circumcision of all male slaves is suggested in Gen. 17: 12–13: 'And throughout the generations, every male among you shall be circumcised at the age of eight days. As for the home born slave and the one bought from an outsider who is not of your offspring, they must be circumcised, home born and purchased alike.' A male Canaanite slave

¹⁰ Richard Grünfeld, *Die Stellung der Slaven bei den Juden nach biblischen und talmudischen Quellen*, part 1, Doctoral dissertation, Jena 1886, 25.

¹¹ Isaac Mendelsohn, *Slavery in the Ancient Near East*, New York 1949, 85.

¹² Ibid. 86. ¹³ Ibid. 91.

¹⁴ On these texts see Lemche, 'Manumission', 51–6.

¹⁵ Ibid. 57.

who was circumcised does not seem to have become a fully-fledged Israelite, though.¹⁶ If this had been the case, the manumission rules concerning Hebrew slaves would henceforth have applied to him. He was probably circumcised for purity reasons and subsequently allowed to participate in certain religious rites. According to Exod 12: 43–4, ‘the Lord said to Moses and Aaron: This is the law of the Passover offering: No foreigner shall eat of it. But any slave a man has bought may eat of it once he has been circumcised.’ The circumcision is not to be understood as a conversion rite, since the circumcised slave did not obtain the status of a proselyte.¹⁷

In the Torah no purification rites are ever mentioned in connection with female slaves. Since the children of foreign slave women and Israelite men were considered proper sons and heirs within the Israelite father’s household,¹⁸ no special purification rites to enable them to perform household tasks may have been required of them. The Elephantine papyri provide evidence of the marriage between an Egyptian slave girl and a freeborn Jew.¹⁹ The female slave did not have to convert to Judaism or even be manumitted before the marriage. The children of such unions seem to have been considered proper Israelites, despite the mother’s enslaved and foreign origin. This suggests that throughout the biblical period an inclusive attitude toward integrating non-Israelite slave women and their offspring into the Israelite household, to increase the number of the master’s children, reigned supreme.

THE CATEGORIES OF SLAVE AND FREEBORN

In the Greek Jewish writings of the Hellenistic and early Roman period the distinction between Jewish and non-Jewish slaves is almost completely absent and the biblical rules concerning Hebrew slaves’

¹⁶ According to Paul Virgil McCracken Flesher, *Oxen, Women, or Citizens? Slaves in the System of the Mishnah*, Brown Judaic Studies 143, Atlanta 1988, 22, the circumcised Canaanite slave ‘no longer occupies the status of an outsider, but becomes a dependent member of his master’s household in particular, and of Israelite society in general’. That he became a member of the Israelite household does not mean that he became an Israelite.

¹⁷ See also in connection with rabbinic texts below.

¹⁸ See e.g. Gen. 16:1 ff; Gen. 30: 4, 7.

¹⁹ Emil G. Kraeling (ed.), *The Brooklyn Museum Aramaic Papyri: New Documents of the Fifth Century B.C. from the Jewish Colony at Elephantine*, New Haven 1953, no. 2.

manumission in the seventh year of their service ignored. All that matters is the distinction between slaves and freeborn persons. In continuation with biblical ideas concerning slavery, enslavement is not seen as the natural state of particular ethnic groups; it is rather seen as a Divine punishment of transgressions which could affect Jews and non-Jews alike.²⁰

The biblical slave laws are taken up and commented upon by Philo, who merely explains the biblical laws rather than altering or expanding them, however. In connection with the laws of Exodus and Deuteronomy, which admonish masters to treat their Hebrew slaves mildly and to release them in the seventh year, he writes that the relationship between Hebrew masters and their slaves should be governed by brotherly love. The master should be aware of the fact that his Hebrew slaves are fellow human beings and part of the same nation.²¹ Philo assumes that the Hebrew slave had lost his former freedom by becoming impoverished, that is, that external circumstances had caused his misery.²² Such a slave is 'by nature free' and shall be restored to his freedom in the seventh year.²³ Philo does not consider non-Jewish slaves natural slaves either, though. No one is destined to become a slave on the mere basis of belonging to a particular nation. For Philo, one's moral conduct and submission to reason, wisdom, and adherence to God's commandments is the ultimate criterion for distinguishing between freedom and 'natural' slavery.²⁴ Accordingly, Jews' enslavement amongst foreign nations is seen as God's just punishment for transgressions from which one can escape through virtuous behaviour only.²⁵

This notion was also shared by Josephus, who interpreted the enslavement of Jews by Romans in 70 CE as God's punishment for the

²⁰ See e.g. *Lives of the Prophets* 1: 13: 'And because Hezekiah showed the gentiles the secrets of David and Solomon and defiled the bones of the place of his fathers, God swore that his offspring should be enslaved to his enemies, and God made him sterile from that day'; *Test. Naph.* 4: 2: 'The Lord will impose captivity upon you; you shall serve your enemies there and you will be engulfed in hardship and difficulty until the Lord will wear you all out'.

²¹ Philo, *De spec. leg.* 2. 79 ff.

²² *Ibid.* 82.

²³ *Ibid.* 84. See also *De virt.* 121 ff.

²⁴ Philo, *Leg. all.* 3. 98; *Quod omnis probus liber sit* 57.

²⁵ Philo, *De praemiis et poenis* 164.

rebels' impiety.²⁶ Josephus applies the same reasoning to the biblical slave law in Leviticus, where debt slavery resulting from poverty seems to be alluded to. Commenting on the law of the release of Hebrew slaves in the Jubilee Year (Lev. 25: 39) he writes that 'at that season debtors are absolved from their debts, and slaves are set at liberty, that is to say, those who are members of the race and having transgressed some requirement of the law have by it been punished by reduction to a servile position, without being condemned to death' (*Ant.* 3. 282). Like Philo, Josephus thematizes the distinction between Hebrew and Canaanite slaves in exegetical contexts only.²⁷ That such distinctions were maintained by Jewish slave holders of his own time is doubtful, though. As far as contemporary circumstances were concerned, 'Josephus does not distinguish in his terminology between Jewish and non-Jewish slaves', as Gibbs and Feldman have pointed out.²⁸

Only a few of the Mishnah's texts addressing the issue of slaves and slavery distinguish between Hebrew and Canaanite slaves.²⁹ Therefore McCracken Flesher concludes: 'The Scriptural distinction of native and foreigner does not define the categories of slavery in the Mishnah's main system of slavery.'³⁰ The distinction between slaves and freedmen is much more common: 'Thus, the Mishnah contains two systems of slavery, the main system of bondman and freedman found in 123 passages, and a secondary scheme of Hebrew and Canaanite slaves that carries forward Scripture's categories of slaves found in six passages.'³¹ The distinction between slave and freedman seems to have been much more important to the rabbis of the Mishnah than the slave's ethnic origin:

²⁶ Cf. Josephus, *Ant.* 20. 166: 'This is the reason why, in my opinion, even God Himself, for loathing of their [i.e. the brigands'] impiety, turned away from our city and, because he deemed the Temple to be no longer a clean dwelling place for him, brought the Romans upon us and purification by fire upon the city, while He inflicted slavery upon us together with our wives and children; for he wishes to chasten us by these calamities.'

²⁷ See e.g. *Ant.* 4. 273, where Exod. 21: 2 and Deut. 15: 12 are paraphrased.

²⁸ John G. Gibbs and Louis H. Feldman, 'Josephus' Vocabulary for Slavery', *Jewish Quarterly Review*, 76 (1986), 293.

²⁹ See McCracken Flesher, *Oxen*, 35–6. The passages are listed in the appendix to his book.

³⁰ *Ibid.* 36.

³¹ *Ibid.*

For the Mishnah's framers, slavery cancels out the bondman's—and therefore the freedman's previous identity. . . . No clue remains to indicate even his ancestral background, not even to reveal whether he was originally an Israelite or a foreigner. The Mishnah's framers ignore the distinction of Scripture, which differentiates between Israelite and foreigner, and instead use the ethnically neutral terms, bondman [עבד] and freedman [עבד משחרר].³²

Since slave status totally obliterates the slave's prior identity, the circumcised non-Jewish (male) slave of a Jewish master, once he is manumitted, can be considered a member of the Israelite community. 'Similarly, if the bondman was originally an Israelite, enslavement affects him just as it affects the enslaved gentile, it cuts him off from his membership and position in his former society.'³³ Therefore one may assume that enslavement had a 'homogenizing effect', it blotted out differences in origin, ethnicity, culture, and religion.³⁴

This homogenizing effect of slavery, which led to slaves' denationalization, seems to have been a general phenomenon throughout the Roman Empire. Mishnaic rabbis' diversion from biblical law in this regard must be seen in this wider context. Originally Jewish slaves who were brought to Rome and employed in Roman households were invariably exposed to non-Jewish ways of life. To what extent they were forced to observe pagan ceremonies and to participate in the cult of pagan deities remains uncertain, but it is very unlikely that they were able to continue adhering to Jewish religious obligations such as Sabbath observance and food laws while they were enslaved.³⁵ If their owners were Christians, they will have tried to convert their slaves to Christianity and to baptize them.³⁶ Originally pagan owners who

³² McCracken Flesher, *Oxen*, 39.

³³ Ibid. 40.

³⁴ Ibid.

³⁵ See also Leonard V. Rutgers, *The Hidden Heritage of Diaspora Judaism*, Leuven 1998, 93, on this issue. That Diaspora Jews in general were constantly exposed to—and seem to have usually given in to—the powers of assimilation has been argued convincingly by Gideon Bohak, 'Ethnic Continuity in the Jewish Diaspora in Antiquity', in John R. Bartlett (ed.), *Jews in the Hellenistic and Roman Cities*, London and New York 2002, 175: 'Jewish continuity in diaspora settings cannot be taken for granted, and . . . in some cases it may have been the exception, not the rule'. If the forces of assimilation already affected freeborn Diaspora Jews, one may assume that they would have affected slaves even more.

³⁶ Henneke Gülzow, *Christentum und Sklaverei in den ersten drei Jahrhunderten*, Bonn 1969, 45. Cf. Aristides, *Apol.* 15. 6.

decided to convert to Christianity usually converted their entire households, including their slaves.³⁷ Similarly, non-Jewish slaves who were owned by Jewish masters will have been circumcised (and immersed) for purity reasons and made to participate in the family's Jewish way of life.

THE CIRCUMCISION AND IMMERSION OF SLAVES

The Tosefta suggests that gentile slaves should be both circumcised and immersed before they are used in a Jewish household:

He who purchases uncircumcised slaves from gentiles and circumcised them but did not immerse them, and likewise sons of slave women, who had not immersed, whether they were circumcised or uncircumcised, behold, these are gentiles. Things which they press against [or: use as a seat] are [deemed] unclean. And [what is the rule] concerning their wine [that is, wine made by them]? In the case of adults it is prohibited, and in the case of minors it is permitted. And who is [considered] an adult? Anyone who remembers and recognizes idolatry and its service. And who is [considered] a minor? Everyone who does not recognize idolatry and its service. R. Yose says: The assumption [that he is] a slave of an Israelite [applies] even if they are uncircumcised? Behold, they are Canaanites, until it is known about them that they are the sons of slave women who had not immersed. The assumption concerning slaves of Samaritans, [even if they are] circumcised, [is that] behold, they are Samaritans. [If they are] uncircumcised, behold, they are gentiles, until it is known that they are the sons of Canaanite slave women. The assumption concerning slaves of gentiles, even if they are circumcised, [is that] behold, they are gentiles (T. A.Z. 3: 11).

³⁷ Gültow, *Christentum*, 52. The New Testament contains many references to a householder's conversion 'with his entire house', cf. John 4: 53, Acts 10: 2, 11: 14, 16: 15, 31, 32 ff.; 1 Cor. 1: 16 (the House of Stephanus), 16: 15 f. On household conversions see also Jennifer A. Glancy, *Slavery in Early Christianity*, Oxford and New York 2002, 46–9. On p. 47 she writes: 'Luke supposed that his readers would find nothing amiss when a slaveholder determined the religious practices of the household. Indeed, even contemporary scholars evince little concern about the legitimacy of conversion and baptism of slaves in such circumstances.' Glancy assumes that the conversion of their entire households gave householders a prominent place in the communities: 'Descriptions of household conversions in Acts of the Apostles suggest that slaveholders played a disproportionate role in the baptisms of their households and therefore a role in the Christian body that derived not from a gift of the spirit but from their secular status.'

This text puts great emphasis on immersion as a necessary requirement for using gentile slaves in Jewish homes. It is not entirely clear whether the text speaks of male slaves only or uses 'slaves' and 'children of slave women' in a gender-neutral way. The reference to circumcision together with immersion makes the first option, that only male slaves are referred to here, more likely, though. Unless they are both circumcised and immersed, male slaves, whether purchased from a slave dealer or born in the Jewish master's household, are considered gentiles.³⁸ As gentiles they render everything they touch impure, and the wine (and food) prepared by them cannot be consumed by Jews. Only gentile slave children were exempt from this restriction, as long as they did not participate in pagan rites.³⁹ The circumcision and immersion of gentile slaves function as symbolic purification rites supposed to cleanse the slaves from their former contact with idolatry then.⁴⁰ They do not render the gentile slaves Israelites, as the last sentence makes clear. Through these rites the slave becomes an עבד ישראל ('slave of Israel').⁴¹

³⁸ See also Gen. R. 46: 1, where it is stressed that slave women's newborn babies have to be circumcised on the eighth day. In Gen. R. 48: 3 Abraham is presented as a model with regard to circumcising one's slaves. For Abraham as an exemplary Jewish slave owner see also Tanh. B. Bereshit 4: 4 (Vayyera): 'R. Acha said: Come and see the power which the Holy One Blessed Be He gave to Abraham, who in one day circumcised himself and the slaves born in his house [וילידי ביתו], and his son Ishmael... Look at how many home-born slaves there were [ראה כמה היו ילידי ביתו]! As it is written: "He mustered his three hundred and eighteen home-born slaves" [Gen. 14: 14]. And if his home-born slaves were so many, those bought for money, how many more [were they]!'

³⁹ This ruling seems to be contradicted by R. Yose: uncircumcised slave children cannot be the slaves of an Israelite. The following text ('until it is known about them that they are the sons of slave women...') is difficult to understand and may be corrupt.

⁴⁰ The dangers of pollution through the possession of pagan slaves within one's household were also seen by early Christians. Geoffrey S. Nathan, *The Family in Late Antiquity: The Rise of Christianity and the Endurance of Tradition*, London and New York 2000, 172, points to the church canon of Elvira (Canon 41, 306 CE) which prohibited slaves' possession of idolatrous idols in Christian households. Since this measure might have led to slave uprisings, it was suggested that masters should live at some distance from their slaves to at least maintain 'symbolic purity in the household'.

⁴¹ See also Joachim Jeremias, *Jerusalem zur Zeit Jesu. Eine kulturgeschichtliche Untersuchung zur neutestamentlichen Zeitgeschichte*, 3rd edn., Göttingen 1962, 385: 'Aus der Leibeigenschaft einerseits und der Beschneidung andererseits ergab sich die eigentümliche Zwitterstellung, in der sich der heidnische Sklave befand. Er war zwar durch die Beschneidung "Sohn des Bundes" und doch nicht (solange er nicht freigelassen war) Glied der Gemeinde Israels.' See also Gülzow, *Christentum*, 18. In Christian communities forcefully Christianized slaves were theoretically considered part of the 'body of

In connection with the Passover rite the Tosefta distinguishes between the circumcision of male slaves and the immersion of female slaves:

All the same are a gentile who was circumcised and a slave woman who had immersed [with regard to being allowed to eat the Passover sacrifice] (T. Pes. 7: 14).

All the same are the Passover [observed in] Egypt and the Passover [observed throughout the] generations: He who has slaves who are not circumcised and female slaves who have not immersed, they prevent him from eating the Passover offering. R. Eliezer b. Ya'qob says: I say that Scripture speaks of the passover in Egypt [only in this regard] (T. Pes. 8: 18).

That both circumcision and immersion are required for male slaves is not mentioned in these texts. Immersion is mentioned for female slaves only.

It remains unclear whether T. Pes. 8: 18 tries to prevent the slaves or the slave owner or both from eating the Passover sacrifice, if the slaves are not circumcised and immersed. In connection with Exod. 12: 44 and T. Pes. 7: 14 the formulation, 'they prevent him from eating the Passover offering' (T. Pes. 8: 18) may refer to the impure slaves: only after having been circumcised and immersed are they allowed to participate in the Passover meal. If, on the other hand, the slave owner is referred to here, one could imagine that rabbis were opposed to Jews eating a Passover meal prepared and served by uncircumcised gentile slaves, although the fact that gentile slaves would render the food impure is not expressly mentioned here. In connection with Exod. 12: 43–4 ('The Lord said to Moses and Aaron: This is the law of the Passover offering: No foreigner shall eat of it. But any slave a man has bought may eat of it once he has been circumcised') the Mekhilta presents a different explanation: 'This indicates that the [failed obligation of] circumcising his slaves may prevent him from eating the Passover offering' (Pisha Ba 15), that is, the master himself may not participate in the meal, if he was negligent and failed to purify his slaves properly. In the Mekhilta a controversy between R. Eliezer (slaves have

Christ' (cf. 1 Cor. 12: 13, Gal. 3: 28, Col. 3: 11), but the liabilities of their enslavement (e.g. their sexual availability which conflicted with Christian values) will have made them second-class members, see Glancy, *Slavery*, 49–50.

to be circumcised) and R. Yishmael (they must not necessarily be circumcised) ensues.⁴²

The final statement attributed to R. Eliezer b. Ya'qob seems to stand in opposition to the anonymous view of the preceding text: only in the Diaspora are circumcision and immersion required of gentile slaves; in the land of Israel, on the other hand, the presence of gentile slaves does not impede the householder from eating the Passover sacrifice (or the slaves from participating in the meal). That such a liberal opinion concerning the ownership of uncircumcised and unimmersed gentile slaves was not shared by other rabbis is indicated by another Tosefta text: 'All make [a house] a dwelling of gentiles, even a male slave, even a female slave . . . ' (T. Ahil. 18: 6). Since the very existence of gentiles in a house makes that house unclean, gentile slaves need to be purified through circumcision and/or immersion before they can be employed in the household of a Jewish family.⁴³

Slaves who were circumcised and immersed were thought to have been brought 'under the wings of the *Shekhinah*', that is, saved from leading a life of idol worship. According to Sifre Num. 80, slave masters who brought many slaves 'under the wings of the *Shekhinah*' would thereby 'increase the glory of God'.⁴⁴ A similar notion is expressed in y. A.Z. 1: 1, 39b, which allows Jews to purchase both Jewish and non-Jewish slaves at the slave markets of gentile fairs:

[A] And has it not been taught: They go to a [gentile] fair and purchase male and female slaves there [cf. T. A.Z. 1: 8]?⁴⁵

⁴² The conflict is resolved by a compromise: the Mekhilta refers to the case of a householder who bought a slave immediately before the beginning of the Sabbath and had no chance of circumcising him. Otherwise slaves must be circumcised to allow the householder to eat the Passover meal.

⁴³ But see M. Ohal. 18: 7 and T. Ahil. 18: 8: slaves are believed when they give testimony concerning the (un)cleanness of the houses of gentiles. The prior circumcision and immersion of the slaves may have been presupposed here.

⁴⁴ In early Christianity, the conversion of slaves to Christianity was similarly regarded as laudable, see G. E. M. de Ste. Croix, 'Early Christian Attitudes to Property and Slavery', in Derek Baker (ed.), *Church Society and Politics*, Studies in Church History 12, Oxford 1975, 24: 'condemnation of the sin of enslaving Christians is commonly accompanied by the tacit admission that enslaving non-believers is permissible, and even praiseworthy if enslavement is followed by conversion to the faith—a conversion which perhaps in some cases could hardly be attained by other means'.

⁴⁵ The negation ׀א in the printed text of the Tosefta (Zuckerman edn., p. 461) seems to be a mistake.

[B] Resh Laqish said: It is not the end of the matter [that one may purchase] Israelite slaves [there], but even gentile [slaves], for one brings them under the wings of the *Shekhinah*.⁴⁶

The continuation of the *baraita* in the Tosefta, ‘for he [the purchaser] is like one who rescues [them] from their hand [that is, their power]’, makes clear that the *baraita* refers to the purchase of Israelite slaves. This understanding becomes explicit in Resh Laqish’s comment on the text. The comment expands the reasoning of the *baraita* by including gentile slaves as well: a variant of the Tosefta’s explanation can be applied to them.

The entire passage reads like a justification of Jews’ purchasing of Jewish and non-Jewish slaves at gentile slave markets. That the Yerushalmi omits the Tosefta’s continuation may be significant: no hint at a possible manumission of the Jewish slaves by their Jewish owners remains. Neither are the gentile slaves to be freed. The advantage of their being the slaves of Jewish masters is that they are brought ‘under the wings of the *Shekhinah*’, a situation which probably implied that they were circumcised if they were male. Such circumcised slaves (עבדי ישראל) were distinguished from those who remained uncircumcised and in the status of an עבד תושב (‘a sojourning slave’), who, according to y. Yeb. 8: 1, 8d, ‘is forever a גר תושב (“a sojourning alien”), behold, he is gentile in all matters’.⁴⁷

The possibility that slaves who were circumcised and/or immersed might be considered Jewish and therefore become free is discussed in the Mekhilta:

R. Nathan says: Scripture says: ‘[Every male among you] shall be circumcised’ [Gen. 17: 1], only to encompass the slave who immersed before his master and

⁴⁶ The text has a parallel in Gen. R. 47: 10: ‘“And all the men of his house, those born in the house and those who had been bought with money [from a foreigner were circumcised with him]” [Gen. 17: 27]. It has been taught: They go to a gentile fair on the intermediate days of a festival to purchase from them houses, fields, and vineyards, and slaves, and slave-girls. R. Ammi in the name of R. Shimon b. Laqish: It is not the end of the matter [that they purchase] circumcised [in some MSS] slaves, but even uncircumcised [slaves], since they are brought under the wings of the *Shekhinah*. R. Yehoshua b. Levi asked before Resh Laqish. He said to him: What is the rule concerning purchasing uncircumcised slaves from a gentile? He said to him: When [i.e. with regard to what time period] do you ask me? [With regard to] a festival day, it has been taught [that it is permitted] even on a Sabbath.’

⁴⁷ Cf. y. Er. 6: 2, 23b, where the same notion is expressed in connection with the *erub-meal*.

became free. A story concerning Beluria, some of whose female slaves immersed before her and some after her. And the case came before sages and they said: Those who immersed before her are free women; [those who immersed] after her are [still] slaves. Nevertheless they served her until the day of her death (Mekh. Pisha 15).

The distinction between immersion 'before' and 'after' the master may refer to voluntary and involuntary immersion here. Slaves who voluntarily converted to Judaism and became proselytes may have constituted a problem for rabbis, since as proselytes they could not have another master but God. For proselytes just as for Israelites slavery stood in contradiction to the Exodus experience of liberation from enslavement. The problem would not apply to slaves who were circumcised or immersed 'after' their master, since such rituals did not constitute proper conversion and integration into the Jewish community. This is also indicated by y. Qid. 3: 15, 64d: '[If] his master becomes a proselyte and makes two of his slaves proselytes . . . behold, they are [still] slaves'.

In connection with Exod. 12: 44 ('But any slave a man has bought may eat of it once he has been circumcised') the Yerushalmi discusses the issue whether slaves may be circumcised against their will (cf. y. Yeb. 8: 1, 8d). According to an opinion attributed to R. Abbahu and R. Eleazar in the name of R. Hoshaiah, Exod. 12: 44 implies that a slave may be circumcised against his will, in contrast to the adult son of a proselyte, who may not. The following statement by R. Hela in the name of R. Yosa introduces further distinctions:

He who takes uncircumcised slaves from the gentiles on condition of circumcising them . . . What is your choice? [If] he is [in the status of] the slave of a man, you can circumcise him against his will. [If you purchased him] on condition not to circumcise him, he is [in the status of] the son of a man: you may not circumcise him against his will.

According to this opinion, then, gentile slaves may be circumcised by their Jewish owners only if this was intended at the time of the purchase (and indicated to the gentile slave dealer?). The second clause, '[If you purchased him] on condition not to circumcise him, he is [in the status of] the son of a man: you may not circumcise him against his will', may perhaps be seen in connection with the restrictive legislation of the Christian emperors of the fourth and fifth century, who prohibited the circumcising of slaves: if the Jewish owners expressly told the gentile

sellers that they would not circumcise the slaves, they had to keep their word and could not act against it later on. This may have been a pragmatic solution which allowed Jewish slave holders and gentile slave dealers to arrive at a sales agreement despite current legal restrictions concerning circumcision. Whether Jewish slave holders actually followed these rabbinic recommendations remains open, though.

THE PROHIBITION AGAINST CIRCUMCISING SLAVES

The practice of circumcising non-Jewish slaves, ordained by the Torah and continued in post-biblical times, was officially prohibited at the end of the third century CE. The prohibition was repeated under Constantine in the fourth century. A rescript from Antoninus Pius prohibited the circumcision of non-Jews.⁴⁸ In his *Sententiae*, probably written before 300 CE, the jurist Paul writes:

Roman citizens, who suffer that they themselves or their slaves be circumcised in accordance with the Jewish custom, are exiled perpetually to an island and their property confiscated; the doctors suffer capital punishment. If Jews shall circumcise purchased slaves of another nation, they shall be banished or suffer capital punishment.⁴⁹

Not only the Jewish masters who circumcise their slaves but also Romans who let themselves and/or their slaves be circumcised by Jews are threatened with harsh punishments here. The first part of this text seems to refer to Roman citizens' (voluntary) conversion to Judaism, a procedure which would probably have involved the conversion of the slave *familia* as well. The second part refers to the forced circumcision of slaves bought by Jewish slave owners from Romans or other non-Jewish slave dealers. Rutgers believes that the prohibition of circumcising non-Jews was issued by the Roman emperor 'in the wake of the Bar Kochba revolt'.⁵⁰ To what extent Jews actually refrained from circumcising their

⁴⁸ See Dig. 48.8.11 and Benjamin Isaac, *The Invention of Racism in Classical Antiquity*, Princeton and Oxford 2004, 449.

⁴⁹ Paul, *Sententiae* 5. 22. 3–4. Translation from Amnon Linder, *The Jews in Roman Imperial Legislation*, Detroit 1987, 118.

⁵⁰ See Rutgers, *Heritage*, 211.

slaves and Romans from selling their slaves to Jews in reaction to this ruling remains an open question, though.

One may assume that if the ruling had been generally observed, Constantine's reiteration of the prohibition several decades later would have been unnecessary. In 335 CE Constantine ruled:

Emperor Constantine Augustus to Felix, Praefectus Praetorio:⁵¹ If one of the Jews shall buy and circumcise a Christian slave or of any other sect, he shall on no account retain the circumcised in slavery, but he who suffered this shall acquire the privileges of liberty. And other matters (C. Th. 19. 9. 1).⁵²

Constantine's primary interest seems to have been the prevention of Jews' employment and proselytizing of Christian slaves. Granting such slaves automatic freedom was meant to deter Jews from purchasing Christian or other non-Jewish slaves and 'conformed to Constantine's known tendency to manumit slaves by law (*lege*), either as recompense or in order to punish their masters'.⁵³

The prohibition against possessing and proselytizing Christian slaves was reissued by Constantine's successors Constantine II (339) and Theodosius (384). The fact that such a restatement was necessary and that the penalty was increased suggests that Jews continued to own and circumcise non-Jewish slaves at that time. Constantine II decreed that if a Jew had bought a non-Jewish slave and 'shall circumcise the purchased slave, not only shall he suffer the loss of the slave, but he shall be punished, indeed, by capital punishment' (C. Th. 16. 9. 2). All Christian slaves were supposed to be taken away from Jewish slave owners, but their manumission is not mentioned any more.⁵⁴ In his decree of 384 Theodosius does not specify the punishment inflicted on

⁵¹ Linder, *Jews*, 139, remarks that although the decree is addressed to Felix, the praetorian prefect of the diocese of Africa, it had a much broader scope: 'it was certainly issued as a general law, with identical copies sent to the governors of the other dioceses as well'.

⁵² Translation by Linder, *Jews*, 141.

⁵³ Ibid. 139.

⁵⁴ But see C.J. 1. 10. 1 (Constantius to Evagrius), which Linder sees as a parallel to C. Th. 16. 9. 2, issued by Constantine II, cf. the discussion in Linder, *Jews*, 144–7. After threatening the Jewish owner with capital punishment, this text adds at the end: 'while that same slave shall be given liberty in recompense'. The addition was probably made by Justinian's editors. Another law promulgated by Constantine II concerns Christian women employed in weaving establishments (C. Th. 16. 8. 6). These women do not seem to have been owned by Jews as slaves, though; the texts rather seem to deal with marital relationships between Jews and Christian women which would involve the women's integration into the Jewish household and their conversion to Judaism.

the Jewish slave owner but states that it should be 'commensurate and appropriate to the crime' (C. Th. 3. 1. 5). He further rules that Christian slaves owned by Jews 'shall be redeemed from a shameful slavery through the payment by Christians of the right price', that is, he urges Christians to redeem their co-religionists with their own money, an appeal to Christian morality.⁵⁵

The idealist notions that a slave owned by a master who does not share his religion should automatically go free and that the slave's co-religionists should invest their own money to redeem him from slavery have parallels in rabbinic texts. According to M. Git. 4: 6,

He who sells his slave to a gentile, or to [someone] outside of the land [of Israel], he goes forth a free man. One should not ransom captives for more than their value [purchase price], for the good order of the world. . . .⁵⁶

It goes without saying that rabbis were unable to enforce these rules. They could not force the gentile slave owner to liberate his Jewish slaves. The first ruling merely served to warn Jewish slave owners against selling their Jewish slaves to gentiles or Diaspora Jews, that is, to households which would not adhere to a proper Jewish lifestyle. Although Jews were urged to ransom their fellow-Jews from enslavement to gentiles,⁵⁷ they were warned against paying excessive prices, since this would only encourage Romans to enslave more Jews. Nevertheless, the Tosefta transmits a story about R. Yehoshua, who went to Rome and redeemed a Jewish boy by paying a large amount of ransom money for him:

A story concerning R. Yehoshua who went [to Rome] and they said to him: There is a child here, a Jerusalemite, with beautiful eyes and a beautiful face, and he is going to be put to disgrace. And R. Yehoshua went to examine him. When he came to the door, he said this biblical verse: Who gave up Jacob to the spoiler, Israel to the robbers? The child answered him and said: 'Was it not the Lord against whom we have sinned, in whose ways they would not walk' [Isa. 42: 24]? At that moment R. Yehoshua said: I call to testify against me heaven

⁵⁵ On the moral imperative to redeem fellow-Christians see also Gültzow, *Christentum*, 101–2.

⁵⁶ The parallel in T. A.Z. 3: 16 and 18 is more detailed. It mentions a deed of emancipation which the Jewish master has to give to his slave (before the sale?). In the Tosefta the admonition to liberate enslaved fellow-Jews also applies to debt slaves and war captives seized by Romans.

⁵⁷ See also T. Git. 4: 2 in this regard: 'for just as Israelites are commanded to redeem free persons, they are commanded to redeem their slaves'. Cf. T. M.Q. 1: 12.

and earth that I shall not move from here until I have redeemed him. He redeemed him with a lot of money and sent him [back] to the land of Israel. And concerning him [Scripture] says: 'The precious sons of Zion, worth their weight in fine gold' [Lam. 4: 2] (T. Hor. 2: 5–6).

The expression 'to be put to disgrace' seems to refer to prostitution here. Prostitution was a fate which threatened enslaved children, especially if they were sold abroad to gentile masters. R. Yehoshua serves as a model for proper moral behaviour here.

It seems, then, that both Jewish and Christian leaders were concerned about their co-religionists' enslavement amongst adherents of another, competing religion or amongst pagans, who would inevitably introduce them to foreign practices and beliefs. Whether they were actually able to prevent such developments from happening is highly questionable. If Jews had not owned and forcibly proselytized Christian and pagan slaves, and if Romans had not owned Jewish slaves and made them adhere to their ways of life, the above-mentioned admonitions would not have been necessary. The law issued by Honorius and Theodosius II in 415 CE (cf. C. Th. 16. 9. 3), which allowed Jews to possess Christian slaves as long as they allowed them to practise their religion, may be seen as a concession, 'undoubtedly influenced by the difficulties involved in implementing the absolute prohibition'.⁵⁸

THE STATUS OF CIRCUMCISED SLAVES

Despite the respective political and religious leaders' concerns about Jewish and Christian slaves' enslavement in 'foreign' households and subsequent conversion, these slaves' status as proper Jews and Christians seems to have been questionable. Slaves in Christian households were often converted by force rather than on the basis of their own deliberate decision. Due to their inevitable involvement in immoral sexual activities Christian slaves would live in continuous contradiction to the official church ethics. Glancy therefore assumes that a double morality reigned within early Christian communities, in which the slave

⁵⁸ Linder, *Jews*, 277. An absolute prohibition against possessing Christian slaves was reintroduced by Justinian between 527 and 534 CE, see C.J. 1. 10. 2, and extended to all slave owners who were not orthodox Christians.

morality stood in conflict with but was tolerated alongside the slave holder morality of the Christian leaders.⁵⁹ While rabbis considered circumcised gentile slaves to be ‘under the wings of the *Shekhinah*’, Jewish slaves were differentiated from free Jews since they ‘had broken off the yoke of heaven and accepted upon themselves the yoke of flesh and blood’ in transgression of the Exodus experience and Jewish monotheism (cf. Exod. 20: 3):

And it [Scripture] says: ‘And his master will pierce his ear with an awl’ [Exod. 21: 6]. Why is the ear seen to be pierced rather than all [other] parts [of the body]? Because it heard from Mount Sinai: ‘For unto me the children of Israel are slaves, they are my slaves’ [Lev. 25: 55], [yet] it broke off the yoke of heaven and accepted upon itself the yoke of flesh and blood. Therefore Scripture says: ‘Let the ear come and be pierced, because it did not observe what it heard’ (T. B.Q. 7: 5).⁶⁰

Exod. 21: 6 refers to the Hebrew slave who wants to stay with his master permanently. In the context of the Tosefta the ruling seems to apply to all Jewish slaves, though. The text assumes that the slave was himself responsible for his enslavement, for example, by selling himself into debt slavery. Being a slave is considered the transgression of a Divine commandment and treatment as a slave the just punishment for this vice.⁶¹ Jewish slaves are considered deficient Jews: on the basis of the Exodus experience, which delivered Jews from slavery to freedom, being the slave of another human being and a Jew who is obliged to God only is seen as a contradiction in terms. Therefore rabbis did not consider slaves part of the Jewish community unless they were manumitted (cf. M. Hor. 3: 8).

Like the Mishnah, the Yerushalmi mainly refers to the biblical distinction between Hebrew and Canaanite slaves in exegetical contexts. The references to Jewish slaves’ release in the seventh and Jubilee years in two different *sugyot* in y. Qid. 1: 2, 59c–d can be seen as a paraphrase and repetition of the biblical rules. As in the Torah, in the Yerushalmi

⁵⁹ See Glancy, *Slavery*, 133–52, where she examines the household codes of the New Testament epistles in this regard.

⁶⁰ The text has a parallel in y. Qid. 1: 2, 59d.

⁶¹ Ancient Christian writers viewed slavery as a Divine punishment, too, but as the punishment of Original Sin rather than of the transgressions of Divine commandments, see Nathan, *Family*, 171, with reference to Augustine, *De civ. dei* 19. 15 and Gregory of Nazianzus, *Or.* 5, who saw slavery as the consequence of man’s Fall.

the contradictory regulations stand side by side without any attempt at harmonizing or explicating them. At the end of y. Qid. 1: 2, 59d the Jubilee Year regulation (Lev. 25: 54) is quoted, but this rule is immediately followed by another quote which states that the enslavement ends with the death of the master only: 'And he shall be your slave forever' (Deut. 16: 16).

According to the Yerushalmi, Jewish and circumcised gentile slaves were to be treated alike in the religious sphere. When religious obligations are discussed, the 'slave' is not further specified as Jewish or gentile but treated as a generic category. Y. Git. 4: 4, 45d deals with the question whether an uncircumcised gentile slave may eat from the Passover sacrifice. Exod. 12: 44 is quoted in this connection, stating that every slave is allowed to eat from it after his circumcision only. In the Yerushalmi another criterion is mentioned, however: a slave who is serving his master may not partake of the Passover sacrifice; when he is not serving his master, he may eat from it. Whether this criterion applies in addition to the criterion of circumcision or as an alternative to it remains unclear.

Differences between 'Israelite' and 'Canaanite' slaves regarding the rights of possession and transfer of ownership are already addressed by the Mishnah. According to M. B.M. 1: 5, a Hebrew slave may keep whatever objects he finds, whereas objects found by a Canaanite slave belong to his master. In the Yerushalmi a statement attributed to R. Yochanan explains this Mishnaic rule: masters have greater authority over Canaanite than over Hebrew slaves in work-related contexts as well. Similarly, y. Er. 7: 6, 24c discusses the respective *mishnah* which distinguishes between Hebrew and Canaanite slaves with regard to their being able to effect possession (in the form of *shituf*, that is, joint ownership of an alleyway by all residents). Hebrew slaves, like the householder's wife and adult children, can effect possession, whereas Canaanite slaves, like minor children, cannot, because 'their hand is like his hand', that is, they are seen as an extension of their master.

The Mishnah further distinguishes between Hebrew and Canaanite slaves in connection with the transfer of ownership (cf. M. Shen. 4: 4): may children or slaves redeem the second tithe for their father/master? In y. M. Shen. 4: 4, 55a the discussion is continued. According to R. Eleazar, only a Hebrew slave can properly function as an intermediary in the transfer of ownership on behalf of the householder. R. Yochanan,

on the other hand, maintains that a Canaanite slave is similarly fit to act in this function, that is, no differences between Hebrew and Canaanite slaves exist in this regard.

It seems, then, that for the rabbis the biblical differentiation between Hebrew and Canaanite slaves was of limited value only. Since by their time Jewish owners would customarily circumcise (and immerse) their non-Jewish slaves, and since enslaved Jews were not considered proper Jews anyway, distinctions between these two categories of slaves were blurred. The natural phenomenon of mixed procreation would also render such distinctions inappropriate. In mixed households enslaved Jews would hardly have been able to limit their sexual intercourse to other slaves of Jewish origin only. For rabbis just as for Roman jurists the state of slavehood, of being the slave of a human master, was therefore more significant than the slave's ethnic and religious origin.

SLAVE NAMES

The transition from free person to slave usually involved a change of the enslaved person's name. In Roman as in Jewish society, filiation indicated the status of the freeborn: the form 'X son of Y' was evidence of the submission to the authority of a father, which brought with it a rightful place in society and marked him as an individual with a family of origin', something which slaves lacked.⁶² Slaves would often be named after their masters and maintain their names after their manumission: 'The master's name and an indication of his possession . . . replaced filiation: name displayed ownership, not paternal relationship.'⁶³ Slaves' personal names could also be Latinized, or they were assigned Greek names, some of which became typical servile names. Some slaves were given nicknames based on physical attributes.⁶⁴

Ethnic names may sometimes indicate the nationality of slaves but are also misleading, as Mary Gordon has pointed out:

⁶² See Sandra R. Joshel, *Work, Identity, and Legal Status at Rome: A Study of the Occupational Inscriptions*, Norman and London 1992, 35.

⁶³ *Ibid.* 36.

⁶⁴ See Leonard V. Rutgers, *The Jews in Late Ancient Rome: Evidence of Cultural Interaction in the Roman Diaspora*, Religions in the Graeco-Roman World 126, Leiden 1995, 168.

As evidence of origin they require to be used with caution. Sometimes they were mere nicknames; more often they were used to designate occupations typical of certain nationalities; above all, they might lose their meaning as completely as the English surnames French or Fleming, and be used indiscriminately as ordinary proper names. Most misleading of all are those apparent ethnica which are really barbarian personal names, just as Germanus may be merely the Latin adjective.⁶⁵

Whether or not 'Germana' is used as an ethnic name in the amoraic stories about R. Yudah ha-Nasi and his slave Germana is open to question.⁶⁶

Elsewhere in the Yerushalmi so-called 'Goths' are mentioned.⁶⁷ Two 'Goths' are said to have supported R. Abbahu in the bathhouse of Tiberias (y. Bez. 1: 6, 60c par. Gen. R. 97: 1; the parallel in b. Ket. 62a has 'slaves'). In another story tradition R. Yehudah Nasia is said to have sent out 'Goths' to seize Resh Laqish who had insulted him with his remark (cf. y. Hor. 3: 2, 47a par. y. Sanh. 2: 1, 19d–20a). Based on Rashi, Krauss has suggested viewing these Goths as the patriarch's private army which was given to him as a gift from Antoninus.⁶⁸ While the assumption of a private army donated to the patriarch by the Roman emperor is highly unlikely (the emperor would not have wanted the patriarch to be a military leader in his own right, after all), the patriarch's armed slaves may have formed a kind of paramilitary body, as suggested by

⁶⁵ Gordon, 'Nationality', 98.

⁶⁶ See y. Shab. 6: 9, 8c; y. Yoma 8: 5, 45b; y. A.Z. 2: 10, 42a. A certain Germanus 'the *liblarius*' also appears in a signature attached to P. Yadin 20—was he a slave who functioned as a scribe? According to Finley, *Ancient Slavery*, 129, 'large-scale trading in Germans can be documented from the third, fourth and fifth centuries'. Some of these slaves may have been brought to Palestine by Roman soldiers and military veterans who may have eventually sold them locally.

⁶⁷ For the various interpretations of the term's occurrence in rabbinic sources see Yaron Z. Eliav, 'Realia, Daily Life, and the Transmission of Local Stories during the Talmudic Period', in Leonard V. Rutgers (ed.), *What Athens has to Do with Jerusalem: Essays on Classical, Jewish, and Early Christian Art and Archaeology in Honor of Gideon Foerster*, Leuven, 2002, 247 n. 23; Andreas Lehnardt, *Besa. Et. Übersetzung des Talmud Yerushalmi*, vol. 11.8, Tübingen 2001, 42–3 n. 390; Alexei Sivertsev, *Private Households and Public Politics in 3rd–5th Century Jewish Palestine*, Texts and Studies in Ancient Judaism 80, Tübingen 2002, 120–4.

⁶⁸ See Martin Jacobs, *Die Institution des jüdischen Patriarchen. Eine quellen- und traditionskritische Studie zur Geschichte der Juden in der Spätantike*, Texts and Studies in Ancient Judaism 52, Tübingen 1995, 43, with reference to Samuel Krauss, *Antoninus und Rabbi*, Vienna 1910, 41 f. and Rashi on b. Ber. 16b. Cf. Seth Schwartz, *Imperialism and Jewish Society, 200 B.C.E. to 640 C.E.*, Princeton 2001, 115.

Sivertsev.⁶⁹ Sivertsev argues that this phenomenon is also reflected in some other narrative traditions of the Talmud Yerushalmi, even if the Goths are not mentioned specifically: the story about Yose of Maon, who had publicly criticized the patriarch(al family) and was forced to escape (y. Sanh. 2: 6, 20d par. Gen. R. 80: 1); the story about R. Shimon b. Laqish who brought slaves of R. Yehudah Nasia to confiscate the property of a woman in connection with an inheritance dispute (note R. Shimon b. Laqish's different role here). With regard to the latter story, Sivertsev writes: 'this story provides explicit testimony to the use of one's slaves as enforcement agents, i.e. for functions similar to those of the *Gutayim*'.⁷⁰

Even if the Goths of y. Hor. 3: 2, 47a functioned as a paramilitary troop, the term does not seem to have been used for such slaves exclusively, and slaves who occupied such functions were not necessarily called Goths, as the other narratives mentioned show. Some slaves' designation as Goths does not necessarily point to their ethnic origin. It may have been a nickname, perhaps based on their physical strength which was associated with that ethnic community. One may assume that in Babylonia the reference to Goths would not be understood properly. Babylonian Jews unfamiliar with Roman slave names would probably not identify them as slaves, therefore the unambiguous term slaves was used instead.

Other slave names, mentioned in stories about R. Gamliel, are Tabi and Tabita. R. Gamliel allegedly used these names for all of his slaves (cf. the *baraita* in y. Nid. 1: 5, 49b). They may have been the translation of the Greek name Dorcas (or Dorcas was the translation of an originally Semitic name).⁷¹ Rabbis' assumption that one and the same name was applied to all slaves of a household indicates the degree of depersonalization to which slaves were exposed.

EPIGRAPHIC EVIDENCE OF DENATIONALIZATION

As a consequence of the denationalizing effects of slavery one may assume that slaves' original ethnic and religious identity could easily be lost during the period of their enslavement, although at least some of

⁶⁹ Sivertsev, *Private Households*, 120–1, 124.

⁷⁰ Ibid. 124.

⁷¹ See Gordon, 'Nationality', 100.

them may have tried to maintain some vestiges of Jewishness to whatever extent their masters allowed them to. One may assume that slaves who were enslaved permanently or for many generations could easily lose their sense of a Jewish identity. War captives or debt slaves, on the other hand, had more recent memories of their past lives and may have hoped for an eventual end to their enslavement. Once they were manumitted, they may have returned to their family, religious community, homeland, and earlier way of life.⁷²

Klein believed that the names 'Africanus', 'Justus', and 'Epictetus', found in ossuary inscriptions from Jerusalem, were the names of former Jewish slaves who had returned to their homeland from the Diaspora after their manumission.⁷³ One of the so-called Goliath family ossuaries from first-century CE Jericho is identified in Greek as 'the ossuary of Theodotus, freedman of Queen Agrippina'.⁷⁴ This Theodotus was probably taken to Rome as a slave and later manumitted by his illustrious mistress. After his manumission he returned to his homeland and was buried with his relatives when he died. Another example of first-century Jewish freedmen who returned to the land of Israel after their manumission is the family of Theodotus commemorated in an inscription found in Jerusalem: the family established a synagogue as a meeting place and hostel (for other Jewish freedmen from the Diaspora?) at a time when the Temple was still existing.⁷⁵

⁷² Bohak, 'Ethnic Continuity', 180 lists three possible ways in which Phoenician immigrants abroad coped with their Diaspora existence: (a) they may have severed all ties with their past and assimilated completely into their host society; (b) they may have eventually returned to their country of origin; (c) they may have 'settled in distant lands but maintained some elements of their ancestral identity'. These options will have been available to diaspora Jews as well.

⁷³ Samuel Klein, *Jüdisch-palästinisches Corpus-Inscriptionum*, Vienna and Berlin 1920, 30. Cf. inscriptions nos. 78, 87, 98. One could also argue that their corpses or bones may have been brought to Jerusalem only after their death, but Isaiah M. Gafni, *Land, Center and Diaspora: Jewish Constructs in Late Antiquity*, Sheffield 1997, 84, has shown that tannaitic sources do not mention the practice: 'As noted, up to the days of R. Judah the Patriarch we have no reliable source attesting to the practice or ideology later attached to burial in the Land'.

⁷⁴ See Rachel Hachlili, 'The Goliath Family in Jericho: Funerary Inscriptions from a First Century A.D. Jewish Monumental Tomb', *Bulletin of the American Schools of Oriental Research*, 235 (1979), 33, inscription no. 3.

⁷⁵ See Lea Roth-Gerson, *The Greek Inscriptions from the Synagogues in Eretz Israel* (Heb.), Jerusalem 1987, no. 19.

Another first-century Jew from Jerusalem captured by the Romans and taken to Roman Italy, known from an inscription, stayed in the Diaspora after her death. A Latin epitaph which may originate from Naples refers to

Claudia Aster, prisoner from Jerusalem [*H}ierosolymitana {ca}ptiva*]. Tiberius Claudius Proculus (?), imperial freedman, took care [of the epitaph]. I ask you to make sure that no one casts down my inscription contrary to the law. She lived 25 years.⁷⁶

Despite her Latin name, Claudia Aster is most likely to have been of Jewish origin.⁷⁷ She was probably enslaved by the Romans during the first Jewish revolt. Noy assumes that her original name was Esther. Tiberius Claudius Proculus may have been her owner and later husband, after whom she was named Claudia. Her marriage may have been the reason for setting her free.⁷⁸ As an imperial freedman Tiberius Claudius Proculus will have had a relatively high status within Roman society.⁷⁹ Whether he was Jewish or gentile remains unclear.⁸⁰ That an originally Jewish woman from Jerusalem should have been married to a pagan freedman and decided to stay in Roman Italy after her manumission should not amaze us, though.⁸¹ What is more striking is the reference to her Jerusalemite origin, which suggests that she (and/or her commemorator) gave some significance to this aspect of her identity.⁸²

⁷⁶ Translation by David Noy, *Jewish Inscriptions of Western Europe*, vol. 1: *Italy, Spain, Gaul*, Cambridge 1993, no. 26.

⁷⁷ See also *ibid.* 45. ⁷⁸ See *ibid.*

⁷⁹ On the high status of imperial freedmen and their attractiveness as spouses see Catharine Edwards, *The Politics of Immorality in Ancient Rome*, Cambridge 1993, 163: 'They were the emperor's creatures, embodied reminders of his power to raise individuals to positions of enormous power from the lowest ranks of the "proper" social hierarchy (and, by implication, the power to cast others down as dramatically).'

⁸⁰ On Jewish freedmen in Italy see Gideon Fuks, 'Where Have All the Freedmen Gone? On an Anomaly in the Jewish Grave-Inscriptions from Rome', *Journal of Jewish Studies*, 36 (1985), 25–32.

⁸¹ For another case of a possibly Jewish woman married to an imperial slave see C. P. Jean-Baptiste Frey, *Corpus Inscriptionum Iudaicarum*, vol. 1, Rome 1936, no. 71: the inscription was set up by Claudia Sabbatis for her husband Clemens, imperial slave and guardian over an aqueduct. *Ibid.* 573 Frey comments on this inscription: 'si réellement Claudia Sabbathis fut juive, son judaïsme fut singulièrement accommodant. Mariée à un esclave de l'empereur, elle se fait ensevelir sous la protection de dieux Manes.'

⁸² The reference to Claudia Aster's Jerusalemite origin is very similar to a case described by Bohak, 'Ethnic Continuity', 178: a tombstone from Thessalian Demetrias of the 3rd cent. BCE mentions a certain Abdes, a Thyrian married to an Argive wife, who

A Jewish freedman who decided to stay in Roman Italy after his manumission may also be commemorated in a third-century CE inscription from Ostia:

For Marcus Aurelius Pylades, son of . . . , the Terentine tribe, . . . from Scythopolis, the first *pantomimus* of his time in . . . , and approved by the Emperors Valerian and Gallienus . . . from the province of Judaea . . . after the death of his father Juda. Also a decurion of the cities of Ashqelon and Damascus. To him, second, the order of the Augustales not only in memory of his father, but also because of his own consummate skill, with all the citizens demanding it equally.⁸³

Like Claudia Aster, Marcus Aurelius Pylades was commemorated under his Latin name but was of Jewish and Judaeian origin. That he has three names, the first two of them those of a Roman emperor, might indicate his freed slave status.⁸⁴ Pylades may have been the added cognomen, the slave's personal name. Rutgers has emphasized that inscriptions from the third century onwards usually lack any references to the deceased's freedman status.⁸⁵ That his father is mentioned in the inscription would be unusual for a slave, however. That a Jew from Roman Palestine should become a prominent pantomime, honoured by the pagan order of the Augustales in Ostia, is striking but was probably not unusual in the mixed cultural environment of the time. Whether Pylades himself or his father was a decurion,⁸⁶ and the relationship between the mentioned geographical locations (Scythopolis, Ashqelon, Damascus, Judaea, Ostia) remains unclear.

It is often difficult, if not impossible, to determine whether the (freed) slaves and/or masters mentioned in inscriptions were Jewish or pagan. Originally pagan slaves who had lived within Jewish families for

'was still very much aware of his Thyrian origin'. Bohak assumes that he was nevertheless 'already on his way to full assimilation, and his descendants, if he had any, would have proceeded on the same route' (ibid.).

⁸³ Translation by Noy, *Jewish Inscriptions*, vol. 1, no. 15.

⁸⁴ See Rutgers, *Jews*, 168: 'As many as 70% of the inscriptions from Rome that carry triple names relate to freedmen/women rather than to freeborn'. See also Lily Ross Taylor, 'Freedmen and Freeborn in the Epitaphs of Imperial Rome', *American Journal of Philology*, 82 (1961), 117 f.

⁸⁵ Rutgers, *Jews*, 169.

⁸⁶ Noy, *Jewish Inscriptions*, 29 writes: 'There is no reason why a Jew should not have been a decurion; the undertaking of municipal offices by Jews was actively encouraged by legislation of Severus and Caracalla (Digest 1 2.3.3.).'

many years may have identified themselves as Jewish after their manumission. For example, an inscription at Beth She'arim was set up for 'Calliope, the elder [or: superintendent of the household],⁸⁷ the freed-woman of Procopius, of blessed memory'.⁸⁸ Whether Calliope was an originally Jewish woman who returned to Judaism after being manumitted by her (pagan?) master, or whether she was a pagan slave who was brought 'under the wings of the *Shekhinah*' during her enslavement to a Jewish master remains unknown. Similarly, Severus, 'the *threptos* of the very illustrious patriarchs', who donated money to the mosaic floor of the synagogue in Chammat Tiberias, may have been of pagan origin.⁸⁹ He seems to have been an abandoned child raised as a son or slave by the patriarchal family.⁹⁰

Both the literary texts and the inscriptions show, then, that common distinctions between Jews and gentiles could not be maintained as far as slaves were concerned. During the period of their enslavement they were seen as blank slates whose identity was determined by the masters whose extensions they were. If their masters were committed Jews, they will have required their gentile slaves to accommodate to their Jewish lifestyle. If their masters were gentile, they will have prevented their Jewish slaves from observing Jewish customs and forced them to submit to a gentile, pagan way of life. The 'ideal' case of Jewish slaves under Jewish masters may have hardly ever occurred or not have been so perfect either: those (few?) Jews who heeded rabbis' admonitions may have bought Jewish slaves in order to redeem them, whereas most Jewish slave owners may have been as reckless as their gentile counterparts. They were more interested in the exploitation of slaves' labour than in their preservation of a Jewish identity. Of course some Jewish slave

⁸⁷ The Greek term *μικτορέπας* refers to a superintendent or manager of a household.

⁸⁸ See Moshe Schwabe and Baruch Lifshitz, *Beth She'arim*, vol. 2: *The Greek Inscriptions*, Jerusalem 1974, no. 200.

⁸⁹ See Roth-Gerson, *Greek Inscriptions*, nos. 16 and 18; Leah Di Segni, 'The Inscriptions of Tiberias' (Heb.), *Idan*, 11 (1988), nos. 29 and 30.

⁹⁰ On *threptoi* as abandoned children see John Boswell, *The Kindness of Strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance*, London 1988, 118. On the exposure of children in Roman and Jewish society in antiquity see Catherine Hezser, 'The Exposure and Sale of Infants in Rabbinic and Roman Law', in Klaus Herrmann *et al.* (eds.), *Jewish Studies between the Disciplines. Judaistik zwischen den Disziplinen*. Papers in Honor of Peter Schäfer on the Occasion of his Sixtieth Birthday, Leiden 2003, 3–28. Child exposure is discussed in more detail in Ch. 6. For the Severus inscriptions see Ch. 4 below.

owners may have stood in between these extremes and allowed their slaves to maintain some Jewish practices. The extent, however, to which he was able to maintain a Jewish identity was not determined by the slave himself but by his master.⁹¹

⁹¹ Peter Lampe, 'Urchristliche Missionswege nach Rom: Haushalte paganer Herrschaft als jüdisch-christliche Keimzellen', *Zeitschrift für die Neutestamentliche Wissenschaft*, 92 (2001), 123–7, argues that some pagan masters allowed their slaves to maintain Jewish practices and that their Jewish slaves and freedmen even founded synagogues in Rome. Although we may assume that some freedmen eventually returned to their religion of origin, that they were allowed to continue Jewish observances while enslaved seems unlikely. Unlike Christianity Judaism focuses on practices rather than beliefs and these practices will have seriously interfered with slaves' usefulness in pagan households.

2

The Slave as Chattel and Human Being

THE denationalization or ‘deracination’ of slaves, the fact that they were seen as non-persons without a proper identity, was based on the identification of slaves with animals and other types of property in the ancient (upper-class) imagination. Those who identified slaves with animals would ignore all aspects of their human identity such as their personal names, ancestry, and religion. This dehumanization and depersonalization allowed slave masters to treat their slaves in a degrading and exploitative way.¹ Nevertheless, human traits could not be destroyed entirely and masters had to take them into consideration. Slaves ‘retained human intelligence and emotion in bodies no longer their own’.² Despite their physical submission to their masters, they were not entirely passive beings. They could benefit their masters through their knowledge and skills or act against their interests and constitute a danger for them and their families. This ability set certain limits to their masters’ power and created a situation of mutual dependency.

THE ‘NATURAL SLAVE’ THEORY AND THE ANIMALIZATION OF SLAVES

In his *Politics* Aristotle distinguishes between people who ‘are free men and others slaves by nature’ (1255a) and defines the ‘natural slave’ as follows: ‘One who is a human being belonging *by nature* not to himself but to another is *by nature* a slave’ (1254a). This theory is rather blurry,

¹ On slaves’ depersonalization see also Meillassoux, *Anthropology*, 107–9.

² Keith Bradley, ‘Animalizing the Slave: The Truth of Fiction’, *Journal of Roman Studies*, 90 (2000), 120.

since it does not specify what enslavement 'by nature' means and leaves open the question of which slaves fall into this category.³ Nevertheless, Aristotle seems to have believed that certain types of individuals and collectivities were naturally conditioned to be slaves, that slavery was not contrary to but fitting with their natural state of being. The natural slaves were considered to be essentially different from the free. They were seen as subhuman and worthy of subjugation. Since they were generally identified with non-Greeks or 'barbarians', Isaac concludes: 'This view of nature and humanity is proto-racist by definition.'⁴ One function of the theory was to justify slavery within the ancient polis. Another function was the legitimization of imperialist ideology.

The natural slave is said to 'participate in reason so far as to apprehend it but not to possess it; for the animals other than man are subservient not to reason, by apprehending it, but to feelings' (1254^b). Again, it remains uncertain to what extent slaves lack reason and, on the other hand, participate in it. Later on Aristotle attributes a minimum of virtue to slaves, just as much as is necessary to obey their masters' commands: 'And we laid it down that the slave is serviceable for the mere necessities of life, so that clearly he needs only a small amount of virtue, in fact just enough to prevent him from failing in his tasks owing to intemperance and cowardice' (1260^a). Both slaves and animals were allegedly created for their masters' service only. Garnsey and Isaac stress that traces of the natural slave theory appear in a number of other contemporary and later Greek and Roman writers as well.⁵

Aristotle's theory of natural slavery involved the comparison of slaves with animals rather than with human beings capable of rational discourse (*logos*) and able to distinguish between right and wrong. From a different perspective agricultural writers such as Cato and Varro recommend slave owners to treat their slaves like animals as far as food, abandoning the sick, and accommodation are concerned.⁶ In Apuleius' *The Golden Ass* or *Metamorphoses* the sudden transformation from human being (free person) to animal (slave) is described in all of its

³ See Peter Garnsey, *Ideas of Slavery from Aristotle to Augustine*, Cambridge 1996, 108. For a detailed discussion of Aristotle's theory see also Isaac, *Invention*, 172–81; for secondary literature on the issue see his bibliographical note *ibid.* 171 n. 3.

⁴ Isaac, *Invention*, 177.

⁵ Garnsey, *Ideas*, 38; Isaac, *Invention*, 181–6.

⁶ See Bradley, 'Animalizing', 110 with references.

ramifications: 'the transformation of Lucius can be taken as a paradigmatic illustration of the animalization of the slave in real life, and as a guide to the meaning of animalization in the master-slave relationship'.⁷ Bradley concludes that 'the ease of association between slave and animal . . . was a staple aspect of ancient mentality'.⁸

Slaves were seen as similar to animals in three regards: First, they had to work like animals for their owners and were not paid for it. Like animals, sick and old slaves were considered a burden to be discarded rather than supported and maintained. Secondly, slaves' bodies could not be protected against physical abuse and sexual exploitation. Slaves had no control over their bodies, which were their owner's property. Thirdly, slaves were sold like animals and subjected to humiliating examinations of physical defects.⁹ These aspects of the animalization of the slave served to 'give his owners complete control over him with little danger of their will being denied'; for the slave owners the 'animalization reemerges as a mechanism of empowerment'.¹⁰ By being treated like animals slaves would eventually lose their 'power of reason and intellect' and 'tolerate the physical hardships and degradations of slavery in a way that human beings normally could not'.¹¹

As already pointed out above, the Torah distinguishes between Hebrew and foreign slaves and admonishes slave owners to apply the harsh exploitative treatment to gentile slaves only: 'Such you may treat as slaves' (Lev. 25: 46). In the stories about the patriarchs slaves are said to have been bought alongside animals: in Egypt Abraham 'acquired sheep, oxen, asses, male and female slaves, she-asses, and camels' (Gen. 12: 16); Jacob sends a message to Esau telling him that he has 'acquired cattle, asses, sheep, and male and female slaves' (Gen. 32: 5). Isaac's slaves are subjected to hard physical labour such as digging wells (Gen. 26: 19). It is especially noted that Solomon refrained from imposing forced labour on any Israelites (1 Kgs. 9: 22). Otherwise slaves' menial tasks are rarely mentioned in the Bible. The physical punishment of slaves is taken for granted: 'A slave cannot be disciplined by words. Though he may comprehend, he does not respond' (Prov. 29: 19). Violence against

⁷ Ibid. 113.

⁸ Ibid. 110.

⁹ On these three aspects of the animalization of slaves in Apuleius' *Metamorphoses* see Bradley, 'Animalizing', 115–16.

¹⁰ Ibid. 116.

¹¹ Ibid. 119.

slaves was probably so common that the master's abuse of his power had to be curtailed. Exod 21: 20–1 rules: 'When a man strikes his slave, male or female, with a rod, and he dies there and then, he must be avenged. But if he survives a day or two, he is not to be avenged, since he is the other's property.' Only physical violence which leads to the slave's immediate death is considered punishable here, whereas the slave's survival suggests that the master did not have the intention to kill him but tried to discipline him only, a practice which is allowed, since the slave is his master's property.

Josephus mentions a number of cases in which slaves were tortured and/or killed by their masters, and such treatment was accorded household slaves who lived in the close proximity of and were probably once trusted by their masters.¹² Even domestic slaves who were their master's confidants were not protected against his sudden mistrust and outbursts of anger.

PHILO'S DISTINCTION BETWEEN SLAVES AND ANIMALS

Despite the biblical permission to treat one's gentile slaves 'like slaves', that is, in a harsh and unrelenting way, and references to the purchase and usage of slaves alongside cattle, in Philo's writing clear distinctions between slaves and animals are made. It is stressed that slaves possess certain qualities which animals lack and that therefore different rules must apply to them. In *De spec. leg.* 2. 69 Philo writes in relation to Exod. 20: 10 ('but the seventh day is a Sabbath of the Lord your God: you shall not do any work—you, your son or daughter, your male or female slave, or your cattle, or the stranger who is within your settlements'):

But the holiday of the Sabbath is given by the law not only to servants but also to the cattle, though there might well be a distinction. For servants are free by nature, no man being naturally a slave [*ἄνθρωπος γὰρ ἐκ φύσεως δούλος*

¹² See e.g. *Bell.* 1. 584–6; *Ant.* 5. 41, 15. 226, 16. 230–3, 17. 44–5, 17. 55, 66, 79. Slave testimony was customarily taken under torture in Roman society, see Joshel, *Work*, 31.

οὐδείς], but the unreasoning animals are intended to be ready for the use and service of men and therefore rank as slaves.

According to Philo, reason distinguished slaves from animals and linked them to other human beings. Later in the same chapter he admonishes slave holders not to treat slaves like 'reasonless animals' as far as their workload is concerned (*De spec. leg.* 2. 83).

In his tractate on the subject of slavery, *Quod omnis probus liber sit* (Every Good Man is Free) Philo takes up the common equation of slaves with animals and subverts it by applying it to all human beings except for the wise (who may well be slaves in real life): 'the multitude, who are like cattle, require a master and a ruler and have for their leaders men of virtue, appointed to the office of governing the herd' (30). The basic anthropological distinction between body and soul allows Philo to maintain that one may be a slave as far as one's body is concerned while one's soul remains free unless one gives in to uncontrollable passions: 'Slavery then is applied in one sense to bodies, in another to souls: bodies have men for their masters souls their vices and passions' (17). Truly free souls can never be enslaved: 'if lions cannot, still less can the wise man be enslaved, who has in his free and unscathed soul a greater power of resistance to the yoke' (40). Only those who give in to their passions and emotions and are governed by them can be compared to animals and slaves.

Philo's opposition to natural slavery and the idea that slaves could be reasonable beings (and the freeborn unreasonable) were shared by the Stoics and early Christians such as Paul.¹³ Whether Philo was influenced by the Stoics or reached his conclusions on the basis of biblical exegesis and his own moral thinking remains uncertain, though.¹⁴ The distinction between slaves and animals and the emphasis on reason and self-control as basic human characteristics, which even those who are enslaved can maintain, stand in opposition to Aristotle's theory of natural

¹³ Stoics: cf. Cic. *De fin.* 3. 67; Diog. Laert. 7. 129. On the Stoic opposition to natural slavery see also Miriam T. Griffin, *Seneca: A Philosopher in Politics*, Oxford 1992, 257: 'The principal philosophical dogma in Seneca's thought is that there are no natural slaves: all men share in the divine reason and thus may claim the gods as ancestors; servitude, like all social ranks . . . is the work of fortune . . .'. Early Christians: cf. 1 Cor. 7: 22, Col. 3: 23–4, Gal. 4: 1–7; emphasis on spiritual slavery and freedom, see Garnsey, *Ideas*, 173–88.

¹⁴ See Garnsey, *Ideas*, 129–30.

slavery mentioned above. For Philo, no one is born to be a slave; one can become a slave through external circumstances (captivity, kidnapping, poverty) only. This slavery is not seen as real enslavement, though. Real enslavement is a self-inflicted evil, caused by one's own transgressions and improper states of mind. This real enslavement can be avoided by striving for wisdom.

The consequence of Philo's and the Stoics' insistence on the human qualities of slaves, which distinguished them from unreasonable animals, were admonitions to masters to treat their slaves mildly and to regard them as fellow human beings. While the Stoics 'deduced from this doctrine only the most minimal principles of humane treatment', however, Seneca went further, 'regarding the slave as entitled to everything covered by man's duty to man'.¹⁵ This means that the slave could be seen and 'treated as a social equal, admitted to conversation, asked for advice, and invited to the master's table regularly'.¹⁶ Cicero and Pliny had personal slaves with whom they were friendly and whom they regarded with admiration and respect.¹⁷ Pliny stresses that grief on the occasion of such slaves' death is allowed, in contradiction to those 'who regarded the loss of a slave as a mere *damnum* and took this attitude to show that they were *sapientes*'.¹⁸

Philo urges masters to treat their slaves mildly as far as fellow-Jewish slaves, whose poverty had caused them to become debt slaves, were concerned: they are to be regarded as fellow human beings, members of the Jewish people (cf. *De spec. leg.* 2. 82). He stresses, though, that slaves, especially non-Jewish slaves, are indispensable (*ἀναγκαιότατον κτήμα*) for fulfilling many necessary tasks in everyday life (*μυρία γὰρ τῶν ἐν τῷ βίῳ πραγμάτων ποθεῖ τὰς ἐκ δούλων ὑπηρεσίας*, *ibid.* 2. 123).¹⁹

¹⁵ Griffin, *Seneca*, 257–8. On the Stoics see also P. A. Brunt, 'Aspects of the Social Thought of Dio Chrysostom and of the Stoics', *Proceedings of the Cambridge Philological Society*, 199 (NS no. 19) (1973), 18: 'Of course Stoics urged masters to treat their slaves justly and kindly... But one constantly feels that Stoics were concerned rather with the moral evil involved in injustice than with the sufferings of the slaves.'

¹⁶ Griffin, *Seneca*, 259 with reference to Seneca, *Ep.* 47. 13.

¹⁷ See *ibid.* 261, with reference to Cicero, *Fam.* 16. 1–15; *Att.* 1. 12, 4; Pliny, *Ep.* 5. 19.

¹⁸ *Ibid.* 262 with reference to Pliny, *Ep.* 8. 16.3; cf. Cicero, *Att.* 1. 12, 4 and Martial 5. 37, 20. The very similar discussion between R. Gamliel and rabbis on the occasion of the death of R. Gamliel's slave Tabi will be discussed below.

¹⁹ This attitude seems to have been shared by Paul, see John M. G. Barclay, 'Paul, Philemon and the Dilemma of Christian Slave-Ownership', *New Testament Studies*, 37 (1991), 184: 'Paul could not imagine how the wealthier members of his churches could retain their social status or their houses without the ownership of slaves'.

Therefore escaped slaves should find a sanctuary in one's house but should then be returned to their masters who would, hopefully, forgive them or sell them to someone else (cf. *De virt.* 124).

The distinction between body and soul and the emphasis on enslavement to passions, wrong thoughts, and emotions as the real slavery enabled Philo, the Stoics, Seneca, and early Christian writers to encourage the slave's spiritual development. This also meant, however, that the actual bodily enslavement was not considered so important and that slaves were not urged to escape but rather to give in to their fate.²⁰ To some extent, then, these teachings helped to maintain the status quo of slavery as an indispensable institution within ancient society.²¹

J E W S A S N A T U R A L S L A V E S ?

Philo's opposition to the natural slave theory may also have been a reaction to the common Graeco-Roman identification of Jews with slaves, which probably increased as a consequence of the Roman conquest of Palestine but may have existed in earlier times as well. Concerning Gabinius, who gave free reign to tax collectors, Cicero writes: 'Then, too, there are those unhappy revenue farmers . . . He [Gabinius] handed them over as slaves to Jews and Syrians, themselves peoples born to be slaves' (*De prov. cons.* 5. 10). The reference to Jews and Syrians as 'people born to be slaves' recalls the natural slave theory, expressed by Aristotle, which is now applied to particular nations, nations subjected to Roman dominion.²²

Traces of this identification are also to be found in Josephus' writing. Paraphrasing the biblical story of Esther Josephus writes: 'But Mordechai

²⁰ See also Griffin, *Seneca*, 260; Garnsey, *Ideas*, 176–9, with reference to 1 Cor. 7: 20 ('Everyone should remain in the state in which he was called'), Col. 3: 22 ('Slaves, obey in everything those that are your earthly masters'), 1 Peter 2: 18 ('Slaves, be submissive to your masters with all respect'). On 1 Cor. 7: 20–4 see Franz Laub, *Die Begegnung des frühen Christentums mit der antiken Sklaverei*, Stuttgarter Bibelstudien 107, Stuttgart 1982, 63–7. See also Barclay, 'Paul', 185.

²¹ See Keith Hopkins, *Conquerors and Slaves: Sociological Studies in Roman History*, Cambridge 1978, 122; Ste. Croix, 'Early Christian Attitudes', 17.

²² See Isaac, *Invention*, 183 and 317, where he writes: 'It is important to note that Cicero is not the only one to describe eastern peoples as "born for slavery". Livy does so too . . .' (cf. Livy 36. 17. 4–5: Syrians and Asiatic Greeks).

because of his wisdom and his native law would not prostrate himself before any man, and Haman, having observed this, inquired from what people he came. And when he learned that he was a Jew, he became indignant and remarked to himself that whereas the freeborn Persians prostrated themselves before him, this man, who was a slave, did not see fit to do so' (*Ant.* 11. 210–11). When Haman heard that Mordechai was a Jew he immediately identified him as a slave and distinguished him from the 'freeborn Persians'. A similar phenomenon is related in the book of Judith. When Assyrian leaders came to Holophernes' tent they allegedly said to his steward: 'Wake our master. These slaves [that is, the Jews] have the audacity to offer us battle; they are asking to be utterly wiped out' (14: 13). When Bagoas notices that Holophernes is dead, he runs out shouting: 'The slaves have played us falsely' (v. 18). Again, the Jewish opponents are identified as slaves not because they were actually enslaved but on the basis of their ethnicity. They were amongst those ethnic groups whom at least some Greeks and Romans considered 'natural slaves' and could therefore legitimately subject to their political domination.

On the other hand, some biblical and rabbinic texts might give the impression that at least some ancient Jews considered certain other people slavish too, and that this slavishness was Divinely legitimized. According to Gen. 9: 25–7,

He [Noah] said: Cursed be Canaan. The lowest of slaves [lit.: slave of slaves] shall he be to his brothers. And he said: Blessed be the Lord, the God of Shem. Let Canaan be a slave to them. May God enlarge Japhet, and let him dwell in the tents of Shem. And let Canaan be a slave to them.

This idea later reoccurs in rabbinic midrash, commenting on this verse:

The Canaanites said: From their Torah we learn and come to them [with claims]. Everywhere [in their Torah] it is written 'the land of Canaan'. Let them give us back our land. He [Gebiah b. Qosem, the enchanter, see previous midrashic context] said to him [to Alexander of Macedon, see context]: My Lord, the king, does a person not do what he likes with his slave? He said to him: Yes. [He said to him:] And is it not written: 'A slave of slaves he [Canaan] shall be to his brothers' [Gen. 9: 25]? Now [it is clear that] they are our slaves. And they fled and went away in shame (Gen. R. 61: 7).

Here the notion of the Canaanites as slaves is used to dismiss their claims to regain their territory.

Like the Canaanites the Gibeonites were believed to stand under the curse of slavery. In Josh 9: 23 Joshua says to the Gibeonites: 'Therefore be accused! Never shall your descendants cease to be slaves, hewers of wood and drawers of water from the House of my God.' In distinction from the natural slave theory promulgated by ancient Greek philosophers such as Aristotle, however, these texts do not suggest that the Canaanites and Gibeonites were 'by nature' born to be slaves; they rather incurred this predicament by their sinful behaviour towards Noah and Joshua, respectively. Permanent slavery is envisioned as God's punishment of the Canaanites' and Gibeonites' misconduct (against Noah and Joshua as God's representatives) here.

AMBIGUITIES IN RABBINIC AND ROMAN LAW

Both rabbinic halakhah and Roman legal texts indicate a fundamental ambiguity over the legal definition of slaves: on the one hand, slaves are seen as things and compared with animals rather than with other human beings;²³ on the other hand, in some areas of law, certain aspects of slaves' human nature, in contradistinction from animals, is taken into account.²⁴ This basic ambiguity, the blurred boundaries between slaves and animals on the one hand and slaves and free persons on the other, underlies all areas of rabbinic and Roman slave law and seems to have also been evident in daily life: 'Though the slave's humanity was legally and philosophically problematic . . . slave owners knew that their slaves were humans as well as chattel, and in this respect living with slaves involved living with contradiction'.²⁵

In a number of Roman legal texts slaves are defined as property alongside other types of property such as cattle, houses, and land. Slaves are classified as *res Mancipi*, as the following text from Gaius' *Institutes* indicates:

²³ On the slave's definition as chattel in Roman law see especially William W. Buckland, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge 1970 (repr. of 1908 edn.), 10–38.

²⁴ See *ibid.* 73–238 on the various aspects of slaves as men.

²⁵ William Fitzgerald, *Slavery and the Roman Literary Imagination*, Cambridge 2000, 7.

There is a further division of things: for they are either *mancipi* or *nec Mancipi*. *Mancipi* are, for instance, land on Italian soil, likewise buildings on Italian soil, likewise slaves and those animals that are commonly broken in for draught or burden, such as oxen, horses, mules, asses (Gaius, *Inst.* 2. 14a).²⁶

The *Digest* transmits the following explanation for using the term *mancipia* in connection with slaves, an explanation taken from an earlier textbook for law students, Florentinus' *Institutes*:

The word for property in slaves (*mancipia*) is derived from the fact that they are captured from the enemy by force of arms (*manu capiantur*) (Florentinus, *Inst.* 9, in *Dig.* 1.5).²⁷

The term was not applied to war captives only, however, but to purchased and home-bred slaves as well.

The classification of slaves as *res Mancipi* had consequences with regard to other aspects of Roman law. With regard to transferring the ownership of slaves from one person to another, for example, a formal ceremony called *mancipatio* was necessary to validate the sale.²⁸ As Alan Watson has pointed out, 'res Mancipi represented the more important class of property in an early agricultural society: the stress is obviously laid on what was useful for farmers'.²⁹ The distinction between the two types of property was maintained throughout late antiquity until it was abolished by Justinian.³⁰

In rabbinic sources the classification of slaves with other types of property and their identification as things and objects is implied in many halakhic rulings but rarely stated explicitly. One of the few texts which explicitly compares slaves with animals is a statement (which may be a *baraita*) quoted within a story in y. Ber. 2: 8, 5b. In order to explain why he does not accept consolation on behalf of his deceased slave woman, R. Eliezer tells his students: 'And have they not said: One does not accept condolences on behalf of slaves because slaves are like cattle [העבדים כבהמה]?' Like cattle slaves are replaceable objects whose humanity is considered irrelevant: 'To one whose slave or animal had died one says: May God restore your loss' (ibid.).

²⁶ Quoted in accordance with Alan Watson, *Roman Slave Law*, Baltimore and London 1987, 47.

²⁷ Quoted in Thomas E. J. Wiedemann, *Slavery*, Oxford 1987, 15.

²⁸ See Watson, *Slave Law*, 47–8.

²⁹ Ibid. 47.

³⁰ Ibid.

The comparison of slaves with animals also appears in Gen. R. 56: 2 (pp. 595–6 in the Theodor–Albeck edition), which comments on Gen. 22: 5 (‘Then Abraham said to his servants: You stay here with the ass . . .’):

[A] He [Abraham] said to him [Isaac]: ‘my son, do you see what I see [that is, the cloud which shows him the place where he should offer his son]?’ He said to him: ‘Yes’. He said to his two young men [the accompanying slaves]: ‘Do you see what I see?’ They said to him: ‘No’. He said: ‘Since you do not see, stay here with the ass, since you are similar to the ass [שאתם דומים לחמור].’

[B] From where do we derive that the slaves are similar to the ass [שהעבדים דומים לחמור]? Rabbis derive proof for it from [the issue of the] giving of the Torah: ‘Six days you shall work and do all your work . . . , your male slave, your female slave, your cattle’ [Exod. 20: 10].

The creative retelling of the biblical story in [A] clearly distinguishes between Abraham’s son Isaac and the two slave boys with regard to their spirituality, that is, their awareness of Divine guidance. Since the slaves are depicted as lacking in this regard, they are classified as animals, together with the asses, rather than as human beings. This comparison of the slaves with asses is taken up in [B], where it is further explained and legitimized on the basis of Scripture: since slaves are mentioned next to cattle in Exod. 20: 10 (Sabbath rest), they are considered to be similar to them in certain regards.

The implicit identification of slaves with objects and pieces of property is much more common in rabbinic sources than such explicit equations. For example, according to M. Git. 2: 3 and T. Git. 2: 4, a divorce document may be written on the hand of a slave who would then be given to the wife to effect a valid divorce. The slave’s body functions as a mere writing surface here.³¹ Slaves like houses, fields, and other types of property can be acquired through usucaption (see M. Qid. 1: 3: Canaanite slaves; M. B.M. 3: 1: slaves in general),³² without a

³¹ On the usage of slaves’ skin as a writing surface see also Page DuBois, *Slaves and Other Objects*, Chicago and London 2003, 3–4, with reference to Herodotus, *Hist.* 5. 35: the slave’s scalp is used as a ‘writing tablet’ to submit a message from one person to another: ‘Here the skin of the slave, at the master’s disposition, becomes a surface, a device for communication like the wax-covered wooden tablet that the Greeks used for writing. The skull of this nameless slave is like the wooden tablet, the skin of his scalp its wax.’

³² See also T. Qid. 1: 5, where usucaption in connection with slaves is further explained as making use of slaves: ‘What is usucaption of slaves? He tied on his sandal, and he loosened his sandal, and he carried after him utensils [or: clothing] to the bathhouse, this is usucaption.’

document.³³ Slaves, just like fields, vineyards, and cattle may be sold by guardians to feed orphans (T. Ter. 1: 10).³⁴ Like animals, they may be hit by their masters without incurring indemnity (cf. M. B.Q. 4: 8: Canaanite slaves; T. B.Q. 9: 24: slaves in general).³⁵ They may be marked with a tattoo to prevent their escape (T. Makk. 4: 15).

On the other hand, in rabbinic texts, just as in Philo's writings, clear distinctions between slaves and animals are made. Like Philo certain Mishnah texts attribute rational thinking, and therefore the ability to know what is right and wrong, to slaves in contrast to animals. This distinctly human capacity required a halakhic distinction between slaves and animals with regard to damages:

[A] Sadducees say: We cry out against you, Pharisees, for you say: My ox and my ass which did damage, they [their owners] are liable, but my male and female slave who did damage, they [their owners] are exempt. If in the case of my ox or my ass, concerning whom I am not liable with regard to commandments, I am liable for their damage, in the case of my male and female slave, concerning whom I am liable with regard to commandments, should it not be the law that I should be liable for their damage?

[B] They [Pharisees] said to them: If you say with regard to my ox and my ass, who do not have understanding [שֵׂאִין בָּהֶם דַּעַת], [that the owner should be liable for their damage], would you [likewise] say with regard to my male and female slave, who have understanding [שֵׂישׁ בָּהֶם דַּעַת], [that the owner should be liable for their damage]? For if I make him [the slave] angry, he will go and set fire to someone else's stack [of corn], and I should be liable to pay?! (M. Yad. 4: 7).

The reference to reason in connection with slaves is attributed to Pharisees here. Slaves, unlike animals, are able to understand what is right and wrong, that is, one has to reckon with the possibility that they

³³ See also y. Qid. 1: 3, 59d on the issue of acquisition of slaves, which is 'treated under the same rubric as inherited real estate' (ibid.). A later *sugya*, however, states that 'there are Mishnah passages that maintain that slaves are equivalent to real estate; there are Mishnah passages that maintain that they are equivalent to movables; and there are Mishnah passages that maintain that they are neither like real estate nor like movables' (ibid.). These different possibilities are explicated at length in the following *sugyot*. The Yerushalmi text shows that rabbis were not unanimous on the question as to what kind of property slaves could be compared.

³⁴ But see T. Ter. 1: 11 and T. Ar. 5: 6–7: it is prohibited to sell fields or houses to buy slaves or cattle with the proceeds, whereas the opposite case is permitted. In comparison with real estate slaves and animals were obviously seen as inferior types of property.

³⁵ Rabbinic texts are not unanimous on this issue, though, see below.

damage other people's property deliberately, in which case their owner should not be held liable to pay. The intentionally evil behaviour explicated in the last sentence is very much formulated from the perspective of the householder and slave owner. The attribution of reason to slaves and viewing them as responsible subjects rather than irresponsible objects serves to protect the slave owner against having to pay fines for damages incurred by his slaves.

The same formula attributing reason to slaves is found in another Mishnah text as well:

One may stipulate terms [with an employer for monetary compensation instead of exercising the right of eating fruit] for oneself, for one's adult son and daughter, for one's adult male and female slave, for one's wife, because they have understanding [שֵׁשׁ בָּהֶם דַּעַת] but one does not stipulate for one's minor son and daughter, for one's minor male and female slave, and for one's cattle, since they do not have understanding [שֹׁאֵין בָּהֶם דַּעַת] (M. B.M. 7: 6).

The authors of this Mishnah seem to assume that adult slaves, just like adult relatives, would be able to understand the male family head's stipulation and thereafter refrain from eating produce,³⁶ whereas minor children, slaves, and cattle lacked such understanding to keep the terms of the agreement and might therefore incur damages. Interestingly, not only minor slaves but also freeborn children are classified together with cattle here, and reason is attributed to adult human beings in general, slaves included.³⁷

In Roman law slaves are viewed as human beings and subjects of their own actions in the same context as in rabbinic law, namely in connection with damages, if they were incurred without the master's knowledge:³⁸ 'If he [the slave] killed without the master's knowledge, the action is noxal because the master ought not be liable for a slave's wicked deed in more than that he surrender him for the harm . . .' (*Dig.* 9. 4. 2,

³⁶ It is not clear whether he would keep the money for himself or give it to his adult children and slaves who would otherwise receive food. The Mishnah may also imply that adult dependants would be able to express their disagreement with the householder's action, if they preferred to eat from the produce.

³⁷ The equation of slaves, women, and minors is much more common in rabbinic sources.

³⁸ Otherwise one might think that the master had ordered his slave to execute the deed or that he knew of his intentions and did not prohibit him from carrying them out.

Ulpian, book 18 on the Edict).³⁹ Here, as in M. Yad. 4: 7, the slave is believed to be able to act wickedly, that is, to deliberately choose to act in an evil rather than in a virtuous way. The implication is that he can distinguish between good and evil, that he has reason.

Although slaves were legally defined as chattel, property, alongside other types of property such as cattle, houses, and real estate, particular legal circumstances required both rabbis and Roman jurists to treat slaves as human beings responsible for their own actions. A particular aspect of the slave's human nature, his knowledge of what is morally wrong, is either implied or explicitly stated in the discussion of damages caused by him. The recurrence to the slave's 'understanding' and intentions serves to exculpate the slave master here.

³⁹ Quoted in Watson, *Slave Law*, 68.

3

Women, Slaves, and Minors

THE triad 'women, slaves, and minors', which is so pervasive in rabbinic halakhah, especially in tannaitic texts, seems to have been more than a convenient theoretical construct circumscribing the 'other' from which free male Israelites distinguished themselves. It seems to have been based on actual social circumstances and common assumptions associated with these groups.

Just as rabbis viewed society from their own free male Israelite perspective, Roman authors commonly depict family relationships from the perspective of the *paterfamilias* who was a Roman citizen. All other family members stood in a subordinate relationship to him. In being subordinate to and dependent on the householder, wives, children, and slaves resembled each other. In being either free or enslaved and possessing or lacking honour they differed from each other, though. The relationship of fathers towards children and husbands towards wives was in many ways similar to the master–slave relationship. Yet all of these relationships also evinced certain dissimilarities which point toward the specific ways in which power was distributed within the family.

Women, slaves, and minors were associated with the private domain of the house, which was considered to be in need of proper regulation. Classical Greek philosophers such as Aristotle already warned against the lawlessness (*anarchia*) amongst slaves, women, and children in case the householder refrained from taking control.¹ Proper control through state regulation would involve 'the elimination of the private sphere through scrupulous legal regulation of every major aspect of sexuality,

¹ See David Cohen, *Law, Sexuality and Society. The Enforcement of Morals in Classical Athens*, Cambridge 1991, 233, with reference to Aristotle, *Politics* 1319a. For similar ideas expressed by Plato in his *Laws*, see *ibid.* 235.

education, and the family'.² The private sphere had to be subordinated to what was considered to be the common good. Rabbinic ordinances concerning various aspects of private life affecting women, slaves, and minors can similarly be regarded as attempts to control and regulate a sphere which was commonly considered to be chaotic and threatening to the proper order of society.

PARENTS AND CHILDREN

The Hebrew Bible already suggests that 'a son should honour his father and a slave his master' (Mal. 1: 6). Philo specifies the hierarchical relationship between parents and children when writing that parents are not only rulers and commanders but also masters over their children, using the term *δεσποτεία*, which is commonly applied to the power of a master over his slaves.³ He continues to explicate the similarities between slaves and children. Both slaves' and children's relationship to the *paterfamilias* is based on birth within his house, on the one hand, and on maintenance costs on the other, since parents spent many times the 'value' of their children on their proper upbringing and education, in addition to the cost of clothes and food.⁴ All of this sounds pretty harsh when taken out of its literary context which culminates in the statement that to honour one's parents is not particularly praiseworthy but should be considered the self-evident duty of children.⁵ Besides its biblical foundation (Exod. 20: 12, Deut. 5: 16) Philo's notion of children's hierarchical inferiority was based on the fact that parents had 'created' their children, an action which he sees in analogy to God's creation of the world.⁶

² See Cohen, *Law, Sexuality and Society*, 234.

³ See Philo, *De spec. leg.* 2. 233. On Philo see Adele Reinhartz, 'Parents and Children: A Philonic Perspective', in Shaye J. D. Cohen (ed.), *The Jewish Family in Antiquity*, Brown Judaic Studies 289, Atlanta 1993, 66: 'The basis for every Philonic discussion of family life is the assumption of the hierarchical nature of the parent-child relationship.'

⁴ See Philo, *De spec. leg.* 2. 233.

⁵ Cf. *ibid.* 234. For Philo's comparison between children and slaves see also *idem*, *Dec.* 165–6.

⁶ See Reinhartz, 'Parents', 67 with references.

Legally, the situation of children and slaves within the family was similar in certain regards. According to Roman law, both children and slaves were economically dependent on the father/master until they were formally emancipated or manumitted. Until they were released from the *paterfamilias'* authority they were unable to own property themselves and to conduct independent business transactions. They could only act as intermediaries on behalf of the householder and earn income on the basis of the *peculium* granted by him.⁷ Although the institution of the *peculium* is never mentioned by rabbis, their regulations concerning the son's and slave's intermediacy in business can be seen as analogous. The slave's and son's 'hand' was considered an extension of the hand of the father or master and the proceeds from the transaction would belong to the latter unless he was generous and granted his emissary a share.⁸

Another point of legal similarity between the child and slave was their subjection to their father's or master's punishment in case he was dissatisfied with their behaviour. Just as masters were legally entitled to exert physical punishment to discipline their slaves, fathers could slap their sons in order to teach them proper manners.⁹

Despite these similarities, differences between slaves and sons with regard to their subjection under the *paterfamilias'* authority are evident as well. These differences are based on the practice that unlike slaves, sons would eventually follow in their fathers' footsteps and become Roman citizens or male adult members of the Jewish community. Therefore sons had to be raised in a way which instilled in them a sense of personal dignity and public obligation. Cicero already wrote that 'different kinds of domination and subjection must be distinguished': children should be taught to obey their father whereas slaves had to be coerced and broken.¹⁰ Accordingly, fathers are repeatedly warned against humiliating their children, whereas slaves, who lacked honour, could be unsparingly put to shame.¹¹ Whereas corporal punishment was, to some extent, permissible as far as minor children, who

⁷ See Watson, *Slave Law*, 90; Antti Arjava, 'Paternal Power in Late Antiquity', *Journal of Roman Studies*, 88 (1998), 148–9.

⁸ See T. B.Q. 11: 2.

⁹ See Richard Saller, *Patriarchy, Property, and Death in the Roman Family*, Cambridge 1994, 133. On Jewish parents' disciplining of their children see O. Larry Yarbrough, 'Parents and Children in the Jewish Family of Antiquity', in Shaye J. D. Cohen (ed.), *The Jewish Family in Antiquity*, Brown Judaic Studies 289, Atlanta 1993, 45, with references.

¹⁰ Cicero, *Rep.* 3. 37.

¹¹ See Saller, *Patriarchy*, 143.

lacked reason, were concerned, adult children should be disciplined on the basis of praise.¹² Rabbis were similarly apprehensive of fathers hitting and wounding their sons, whereas no such restrictions applied to slaves, since they stood beyond the realm of honour and shame.¹³ Despite certain legal similarities, then, Saller's emphasis on the ideological 'opposition between *pater* and *dominus*... in Roman culture' seems to be valid for ancient Jewish society as well.¹⁴

HUSBANDS AND WIVES

Like sons, wives are compared to slaves in some books of the Hebrew Bible. 1 Sam. 25: 41 relates that when David's messengers told Abigail that she would become his wife 'she immediately bowed down with her face to the ground and said: "your handmaid is ready to be your maidservant, to wash the feet of my lord's slaves"'. Similarly, Ruth calls herself Boaz' 'handmaid': 'You are most kind, my lord, to comfort me and to speak gently to your maidservant, though I am not so much as one of your female slaves' (Ruth 2: 13; cf. 3: 9). On the one hand, these instances of female self-humiliation resemble male presentations as slaves which are common in the Bible. Yet the higher authority to which male figures such as Abraham, Moses, and David are subordinated is God and not another human being.¹⁵ The biblical attribution of slave terminology to women also appears in the Greek-Jewish novel *Joseph and Aseneth* and may be based on the biblical prototypes just mentioned. This text goes further than the biblical models, however, in outlining the 'slavish' tasks which a wife was expected to perform for her husband. In her prayer to God Aseneth states: 'And you, Lord, commit me to him for a maidservant and slave. And I will make his bed, and wash his feet, and wait on him, and be a slave for him and serve him for ever and ever' (Jos. As. 13: 15).¹⁶ In a story transmitted in the *Yerushalmi* very similar words are put into the mouth of a female relative of R. Eleazar. When he urged her to get

¹² See Saller, *Patriarchy*, 143.

¹³ Cf. T. B.Q. 9: 8.10; R. Yehudah's statement in M. B.Q. 8: 3.

¹⁴ Saller, *Patriarchy*, 151. See also idem, 'The Hierarchical Household in Roman Society: A Study of Domestic Slavery', in *Serfdom and Slavery: Studies in Legal Bondage*, 2nd edn., London and New York 1999, 128.

¹⁵ See e.g. Gen. 26: 24 (Abraham), Deut. 34: 5 (Moses), Ps. 18: 1 (David).

¹⁶ See also Jos. As. 6: 8.

married, she allegedly said to him: 'Behold, I am your maidservant to wash the feet of the slaves of my master' (y. Yeb. 13: 2, 13c). The recurrence of this terminology in Jewish literature from the Bible to the Yerushalmi shows that the comparison between women and slaves had a long tradition in ancient Jewish thinking.

The list of a wife's tasks mentioned in Joseph and Aseneth is very reminiscent of M. Ket. 5: 5, which similarly lists wives' duties within the household, some of which might be taken over by slaves: 'These are the tasks which a wife does for her husband: grinding [flour], and baking [bread], and washing [clothes], cooking, sucking her child, making him his bed, and working in wool.' If she brings into the marriage one slave girl, she is released from household tasks which are not directly related to the service of her husband and children, namely grinding flour, baking bread, and washing clothes. The more personal tasks of making her husband's bed (cf. Aseneth) and sucking her child, nevertheless remain. If she brought in two slave girls, the latter task could be delegated to a nurse, however,¹⁷ and in the case of three she would be released from making his bed as well.¹⁸ It seems that both Joseph and Aseneth and the Mishnah considered a wife's personal service of her husband and children her most important tasks, which wealthy women were nevertheless allowed to delegate to slaves. The similarity of women's and slaves' tasks within the household seems to have been a fixture of ancient (male) thinking and must have added support to the frequent equation of the two social categories.

DIFFERENCES BETWEEN SLAVES AND WIVES/CHILDREN

According to Saller, one also needs to be aware of the differences between the father-child and the husband-wife relationship in

¹⁷ Although Gail Labovitz, "'These are the Labors': Constructions of the Woman Nursing her Child in the Mishnah and Tosefta', *Nashim*, 3 (2000), 15–16, points out that in the Mishnah women are portrayed as wives 'whose nursing is a concern to her marital relationship with her husband and to the patriarchal economy of their household', the Mishnah allows Jewish women to use gentile women as wet-nurses for their children, see M. A.Z. 2: 1 and T. A.Z. 3: 3. In y. A.Z. 2: 1, 40c this ruling is explained by reference to Isa. 49: 23: 'Kings shall be your foster fathers and their queens your nursing mothers'.

¹⁸ Cf. the discussion of the Mishnah in y. Ket. 5: 5, 30a, and especially the statement attributed to R. Huna *ibid*.

Roman society: 'From the legal point of view, the father-child bond was indeed patriarchal, but the husband-wife relationship (...) was certainly not in the classical era'.¹⁹ The father-child relationship may therefore have resembled the master-slave relationship more than the husband-wife connection did. In imperial Roman society marriage would usually be *sine manus*, that is, the wife would maintain control over her own property. This gave her a certain amount of independence and sometimes even power over her husband.²⁰ As independent owners of property some Roman wives differed from slaves. Rabbinic sources seem to refer to a form of marriage which resembles the earlier Roman *manus* marriage, however: through marriage women and whatever belonged to them became the property of the husbands and were subjected to their authority.²¹ In lacking control over property wives would resemble slaves (and minor children) then.²² This phenomenon becomes clear in M. B.M. 1: 5, which rules that 'the find of his son or daughter who are minors, the find of his male and female slave who are Canaanites, the find of his wife, behold, they belong to him [the householder]'. Since neither women nor slaves or minors could own property, charity collectors were not supposed to accept large sums of money or expensive items from them (cf. T. B.Q. 11: 6), and no deposits were to be taken from them either (cf. T. B.Q. 11: 1 and the *baraita* in y. B.Q. 9: 11, 7a). Just as the slave could not initiate his own manumission, women could not initiate a divorce. Accordingly, manu-

¹⁹ Saller, *Patriarchy*, 128.

²⁰ See *ibid.* 129.

²¹ See Michael Sarrow, *Jewish Marriage in Antiquity*, Princeton and Oxford 2001, 218: 'Palestinian rabbinic law consistently asserts the rights of the husband over the property of his wife'.

²² Judith Hauptman, *Rereading the Rabbis. A Woman's Voice*, Boulder 1998, 191-2, points out that rabbis would nevertheless suggest ways in which women could own some property: 'As long as the assets that a father gives to a daughter are given as a dowry or as a gift in contemplation of death, it is legitimate for him to assign her a substantial share of his wealth.' But see Tal Ilan, *Jewish Women in Graeco-Roman Palestine. An Inquiry into Image and Status*, Texts and Studies in Ancient Judaism 44, Tübingen 1995, 167: 'The assumption was that the property which the woman received from her father in the *ketubbah* was managed by her husband, who had the right to enjoy the profits from the property (*mKet.* 6.1) and even to lose against it (*ibid.* 8.5) ...'. That rabbis were aware of the different Roman customs concerning women's inheritance of property is indicated in y. B.B. 8: 1, 16a: 'The sages of the gentiles say: A son and a daughter have equal footing as heirs.'

mission and divorce documents and procedures are often assimilated in rabbinic thinking.²³

In contrast to children who were blood relatives of the householder, wives and slaves had entered the family from outside, 'both occupied an ambiguous position in the patrilocal family as indispensable outsiders; and both were viewed as morally deficient and potentially dangerous'.²⁴ Despite certain similarities in their relationship to the householder, differences applied as well. In contrast to slaves, women had free status, were supposed to preserve their honour, and were not equated with other types of property such as animals. In contrast to women, slaves' status was not based on physical, gender-specific attributes; and their slave status was not necessarily permanent as women's status was.²⁵ The comparison between women and slaves must therefore be seen as a 'pervasive process of simultaneous assimilation and distinction' in ancient cultures which were both patriarchies and slave-holding societies.²⁶ On the one hand, 'the analogy of slavery was used to define the position of the free woman in her presumed inferiority and subordination to the free man'; on the other hand, 'the free woman is crucially distinguished from the slave by the honour that comes with her status'.²⁷ Her honour is linked to the preservation of her chastity 'which assures the legitimacy of the next generation and reinforces the honour and authority of her father and husband'.²⁸ The emphasis on the preservation of wives' chastity in contrast to the sexual availability of the slave can be considered a major distinction between wives and slaves in their relationship to the *paterfamilias*.²⁹

WOMEN, SLAVES, AND MINORS

The rabbinic equation of 'women, slaves, and minors' in various aspects of religious law was therefore to some extent based on actual power structures within the family and on ideological constructs associated

²³ See e.g. M. Git. 1: 4–6; T. Git. 2: 7; T. B.B. 11: 5.

²⁴ Sandra Joshel and Sheila Murnaghan, 'Introduction: Differential Equations', in Joshel and Murnaghan (eds.), *Women and Slaves in Graeco-Roman Culture: Differential Equations*, London and New York 1998, 3.

²⁵ See *ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.* 4.

²⁸ *Ibid.*

²⁹ See also Richard Saller, 'Symbols of Gender and Status Hierarchies in the Roman Household', in Sandra R. Joshel and Sheila Murnaghan (eds.), *Women and Slaves in Graeco-Roman Culture: Differential Equations*, London and New York 1998, 85.

with patriarchy, slavery, and gender evident in ancient legal and literary texts.

The association of women and minors with slaves in both a religious and civic context can already be found in Josephus' *Antiquities*. Deut. 31: 12 prescribes that every seventh year at the Sukkot holiday the law shall be read out by the high priest in front of the assembled community: 'Gather the people—men, women, children, and the strangers in your communities—that they may hear and so learn to revere the Lord your God and to observe faithfully every word of his teaching'. Here the phenomenon that men, women, and children, together with resident aliens, constitute the community is taken for granted, whereas slaves are not mentioned at all. In Josephus' version, on the other hand, the inclusion of women, children, and slaves had to be explicitly stated: the law shall be read 'to the whole assembly; and let neither woman nor child be excluded from this audience, nor the slaves. For it is good that these laws should be so graven on their hearts and stored in their memory that they can never be effaced' (*Ant.* 4. 209). Josephus obviously assumed that women, slaves, and minors would usually not study or listen to Torah readings in public. Otherwise he would not have considered it necessary to mention them explicitly. That men formed part of the public assembly is taken for granted and therefore not specified here. In the continuation of the text Josephus further explains why the inclusion of women, slaves, and minors is to be recommended on this occasion: they should hear the laws so that they cannot plead ignorance of them later on.

The adaptation of Torah law to fit the common association of women with slaves in Josephus' own times is also evident elsewhere in *Antiquities*. According to Deut. 17: 6 and 19: 15, a death penalty can be issued on the basis of the testimony of two or more witnesses only. The gender or status of the witnesses is not specified any further there. Josephus, however, adds to this ruling: 'From women let no evidence be accepted, because of the levity and temerity of their sex; neither let slaves bear witness, because of the baseness of their soul, since whether from cupidity or fear it is likely that they will not attest the truth' (*Ant.* 4. 219). Josephus' addition seems to be based on contemporary customs of excluding women and slaves from functioning as witnesses in court. This exclusion is justified by reference to current prejudices concerning the low moral character and personal weakness of these population

groups. With regard to Greek law Tulin writes: 'In general, Attic law, and especially Attic homicide law, was largely concerned . . . only with its citizen body, while others—women, children, slaves, even metics and aliens—were relegated to the procedural margins.'³⁰ In Roman law slaves' testimony was not accepted in civil cases, but certain exceptions applied.³¹ About Jewish civil law in the first century CE no direct evidence exists.

The third instance in which Josephus associates slaves with women and minors appears in the context of a discussion of a spectacle organized by Gaius Caligula in the theatre on the Palatine in Rome (cf. *Ant.* 19. 86). What was particular about this event was that there was mixed seating, 'women mixed with men and free men with slaves'. In the continuation of this text, common prejudices against women and slaves and their association with unreasonable children are expressed. When news of Caligula's death reached the theatre crowd, the responsible (adult male) members of the audience were happy, whereas others, 'among them silly women, children, all the slaves, some of the army', were not (cf. *Ant.* 19. 129). Women and children allegedly supported Caligula because of the spectacles he financed and the gifts he distributed, that is, for stupid and superficial reasons (see *Ant.* 130). Slaves' reason for siding with Caligula is said to have been slightly different but similarly base: 'The slaves supported him because they were now on familiar terms with, and contemptuous of, their masters, and found in his intervention a refuge from their masters' rough treatment, for it was easy for them to gain credence when they informed falsely against their lords. They also found it easy, by giving information about their masters' possessions, to gain both freedom and wealth as a reward for such denunciations, since the informers' fee was one-eighth of the property' (*Ant.* 19. 131). Slaves' inability to testify in court against their masters was 'a very ancient rule', confirmed by Julius Caesar and referred to by Cicero.³² Nevertheless some emperors, such as Augustus and Tiberius, seem to have 'evaded' or 'disregarded' it.³³ Josephus' text suggests that this was the case with Caligula as well. Women, children,

³⁰ Alexander Tulin, 'Slave Witnesses in Antiphon 5.48', *Scripta Classica Israelica*, 18 (1999), 24.

³¹ See Buckland, *Roman Law*, 86.

³² See *ibid.* 88 with references.

³³ See *ibid.*

and slaves were assumed to be unable to make sound political judgments, and this inability legitimizes their common exclusion from the public arena here.³⁴

The areas in which Josephus correlates slaves with women and minors—public Torah reading on Sukkot, the exclusion from giving testimony before a court, and the inability to make a sound political judgment—that is, in religious, civil, and ideological regards, are widely expanded in rabbinic sources. In the Mishnah and Tosefta the analogy between these three categories is mostly made in connection with religious observances and obligations. Women and slaves' inability to function as witnesses, stated by Josephus, is transferred to the religious realm here: women and slaves are invalid as witnesses to the New Moon (M. R.H. 1: 8); it is questionable whether their testimony is valid in order to allow a woman to remarry after her husband's disappearance or death (M. Yeb. 16: 7). A court generally refrains from making women and slaves guardians; if the father of the children to be supervised appointed them during his lifetime, however, their guardianship can be considered valid (T. Ter. 1: 11).

Whereas these issues concern women and slaves only, in other regards the position of slaves is presented as analogous to the position of both women and minors. This is especially the case with regard to their exemption from certain religious obligations of male adult Israelites. Women, slaves, and minors are exempt from the recitation of the *Shema* and from putting on *tefillin* (M. Ber. 3: 3);³⁵ they are not included amongst the three people needed to say the Common Grace (M. Ber. 7: 2); women, slaves, and minors may say the Hallel Psalms on behalf of men, but this is considered disgraceful for the latter (M. Suk. 3: 10: 'let it be a curse to him'); one does not make a *chavurah* for the eating of the Passover offering consisting of women, slaves, and minors (M. Pes. 8: 7);³⁶ women, slaves, and minors are not obliged to blow the

³⁴ The association of women and slaves with tyranny is also present in Greek philosophical thinking, see DuBois, *Slaves*, 199–200, with reference to Aristotle, *Pol.* 1313b.

³⁵ But they are obliged to recite the Amidah, to attach a *mezuzah* to doorposts, and to say the Grace after meals.

³⁶ According to Albeck's commentary ad loc. in his edition of the Mishnah, the Bavli presents two possible interpretations of this text: one does not create a *chavurah* consisting only of women or slaves or minors, or one does not create mixed *chavurot* made up of people belonging to these three categories only.

shofar on Rosh Hashanah (T. R.H. 4: 1);³⁷ neither are they obliged to recite the Megillah on Purim (T. Meg. 2: 7) or to dwell in the *sukkah* on Sukkot (M. Suk. 2: 8). Like deaf-mutes, blind men, idiots, and gentiles, women, slaves, and minors are exempt from the ritual of laying-on of hands (on the head of the burnt offering in expiation of their sins, cf. M. Men. 9: 8).³⁸ Pledges concerning the shekel offering are not exacted from women, slaves, and minors (M. Sheq. 1: 3), and they are not liable to the surcharge (M. Sheq. 1: 6).³⁹ Together with agricultural overseers (*epitropoi*) and the landlord's agents they may bring first-fruits but should not recite the blessing over them, since they cannot say, 'Which you, my Lord, has given me' (M. Bik. 1: 5).⁴⁰

The reasons for women's, slaves', and minors' exclusion from these practices are rarely stated explicitly. Sometimes they are rather obvious, though: just as charity collectors are not supposed to accept expensive items from women, slaves, and minors because they do not own any property, the shekel offering is not collected from them. Since they do not own land, they cannot say the blessing over the first-fruits which implies the ownership of the fruits and the fields from which they come. Thus women's, slaves', and minors' lack of monetary and landed property was one reason why certain religious obligations would not apply to them.

Another reason seems to have been these social groups' association with the private sphere and lack of involvement in public activities or activities concerning assemblies of men: they are not required to blow the *shofar*, recite the Megillah, or say the Common Grace on behalf of others. Related to their association with the private sphere is the assumption that they would be occupied with household tasks on behalf of the landlord: they are not obliged to say the *Shema* and to put on *tefillin* at particular times of the day because this would necessitate them interrupting their work. As far as slaves are concerned, the Yerushalmi provides another explanation of this Mishnaic ruling: since the *Shema*

³⁷ T. R.H. 2: 5 in the Lieberman edition of the Tosefta. This is in contrast to proselytes, freed slaves, *mamzerim*, and eunuchs, who also constitute social categories considered inferior to adult male Israelites.

³⁸ Cf. Lev. 1: 4.

³⁹ The surcharge (קליבון) is the compensation paid to the shekel collectors of the Temple to reimburse them for losses incurred by changing shekels into or from other currencies.

⁴⁰ Par. Sifre Deut. 301 (p. 320 in the Finkelstein edn.).

expresses the unique relationship between oneself and God, only those who have no other Lord but God can recite it. The text of the *Shema* would therefore not be appropriate for slaves, who have another Lord and master (cf. y. Ber. 3: 3, 6b).⁴¹

Finally, common prejudices against women, slaves, and minors, who were assumed to be morally and intellectually inferior to men, may have played a role: the Tosefta explains the rule that no separate *chavurot* of women, slaves, and minors should be formed for the eating of the Passover sacrifice with reference to these groups' alleged unruliness when not under male control.⁴² The Yerushalmi editors considered it necessary to justify their permission to search for leaven, 'All are trustworthy with regard to the search for leaven, even women, even slaves' (y. Pes. 1: 1, 27b), which implies that their trustworthiness in this regard was not considered self-evident.⁴³

Accordingly, rabbis seem to have been guided by common assumptions about women, slaves, and minors, when making these rulings: their lack of property ownership, their exclusion from the public sphere, their occupation with household tasks. It is important to note, however, that women's, slaves' and minors' exemption and lack of obligation in these regards does not mean that they are prohibited from observing the same halakhic rulings which apply to men, if their circumstances allow them to do so. Thus one may assume that women who employed slaves to do most household tasks for them will have had enough leisure time to recite the daily prayers. Widows who had inherited property from their husbands may well have said the blessing over first-fruits and donated certain amounts of money.⁴⁴

⁴¹ The text has parallels in y. R.H. 3: 9, 59a and y. Hag. 1: 1, 76a. See also y. Naz. 9: 1, 57c, where slaves' separation from God is also mentioned in connection with the question whether a master can force his slave to become subject to the Nazirite vow.

⁴² In T. Pes. 8: 6 the explanation, 'in order not to increase impropriety' is added to M. Pes. 8: 7. Cf. y. Pes. 8: 7, 36a ('because they increase impropriety'). In the Yerushalmi this reasoning is further explained in a subsequent statement attributed to Bar Kappara: 'So that they do not bring the holy ones into the hands of disgrace.'

⁴³ According to a statement attributed to R. Yirmeyah in the name of R. Zeira (ibid.), women need not be specified as trustworthy here, since they are known to be meticulous in their search.

⁴⁴ Obviously synagogue leaders accepted donations from women, as is evident from a few synagogue dedication inscriptions which mention women donors, see Catherine Hezser, *Jewish Literacy in Roman Palestine*, Texts and Studies in Ancient Judaism 81, Tübingen 2001, 407–8, with references.

That rabbis exempted women, slaves, and minors from certain halakhic obligations because they assumed that they would lack the respective knowledge and expertise to perform them is indicated by a parable in T. Ber. 6(7): 18, where the benediction of the Amidah in which men praise God for not having made them women is mentioned.⁴⁵ The benediction is explained by the phenomenon that 'women are not obliged [to perform] commandments'. One may assume, though, that women who had obtained sufficient knowledge and expertise to observe halakhic rules, would be allowed to do so.

In some instances, women are associated with Hebrew slaves and adult children in contrast to minor children and Canaanite slaves. The householder should not slaughter a Passover offering or make an *erub* on behalf of his wife, adult children, and Hebrew slaves without their knowledge (cf. T. Pes. 7: 4 and T. Er. 6: 11).⁴⁶ In the case of minor children and Canaanite slaves, on the other hand, he may go ahead without informing them. The reason for this distinction was probably that wives, adult children, and Hebrew slaves were required to observe the *erub* limits and therefore had to know its location. They were also supposed to participate in the Passover ritual in a conscious way and to be knowledgeable of the various aspects of the festival. Thus, women, adult children, and Hebrew slaves were required to possess a certain knowledge of those ritual performances which concerned them as well.

Male children were supposed to be religiously socialized in such a way that they could easily follow in the footsteps of their fathers. Therefore their religious obligations occasionally differ from those of women and slaves. Although women, slaves, and minors are generally exempt from dwelling in the *sukkah* during the Sukkot festival, male minors who do not need their fathers any more, that is, who are able to manage by themselves, are liable to stay in the *sukkah* with their adult male Israelite relatives (cf. M. Suk. 2: 8). Male minors were also allowed to read from the Torah in public (cf. M. Meg. 4: 6), and this practice may have been common at places where the adult male literacy rate was very low.⁴⁷ In

⁴⁵ On this parable see Ch. 16 below.

⁴⁶ The rule concerning the *erub* is formulated in a general way in M. Er. 7: 11. The Mishnah distinguished between an *erub* for Sabbath limits, which should be made with the knowledge of all involved parties, and an *erub* for courtyards, where distinctions are made in this regard.

⁴⁷ See Hezser, *Literacy*, 467.

certain regards, women were distinguished from slaves as well. Rabbis point out that husbands had greater responsibilities with regard to their wives' maintenance than masters had toward slaves. Although the latter were not obliged to provide food for their slaves, husbands were required to provide sustenance for their wives (M. Git. 1: 6). In addition, husbands were concerned with the protection of their wives' honour, whereas slaves were always considered promiscuous.

Altogether then, rabbis' association of slaves with women and minors was based on certain legal, social, and ideological similarities amongst these groups which were widespread not only in Jewish but also in Graeco-Roman society. Their exclusion from public functions, lack of property rights, and alleged moral deficiency made their social roles appear similar and caused rabbis to exempt them from certain religious obligations which applied to publicly active, property-owning, morally responsible adult male Israelites. Nevertheless rabbis just as Roman writers knew that women's and children's relationship toward the husband and father differed from the slave-master relationship in significant regards. They were concerned with preserving women's honour and instilling a sense of honour and obligation in children. Accordingly, the ways in which householders treated women and children, on the one hand, and slaves, on the other, will have differed significantly: for example, slaves could be disciplined by corporal punishment and even be killed by their masters, whereas fathers were admonished to praise rather than hit their children; masters could retain food from slaves, whereas husbands had to sustain their wives. One may assume that the similarities and differences between these three categories of dependants of the householder would have caused ambiguous relationships amongst them, as will be discussed in more detail in Part II below.

4

Hierarchical Equations and Differentiations

ALTHOUGH all slaves were affected by the general aspects of slavery discussed above (denationalization, identification with chattel, total dependency on the master), in reality there were great differences amongst slaves as far as their actual status within the household and in society at large was concerned.¹ Household slaves were generally better off than farmhands,² well-educated and skilled slaves were more valuable for their masters than the rest of the *familia*, and slaves of prominent masters were both respected and feared within society.³ Altogether, slaves' roles and functions were very diverse and the boundaries between slaves' and free men's work and lifestyle were blurred, as Keith Hopkins has pointed out: 'Slaves acted as overseers, naval captains in the Roman imperial navy, secretaries, scribes, managing agents, bankers and doctors. They worked alongside free men and earned the same pay.'⁴ Some slaves even 'ran their own business, became wealthy and even bought their own slaves'.⁵ The status and lifestyle of such slaves would be very different from that of simple slave labourers on rural estates: 'an important minority of slaves had considerable prestige, social power and influence. Their social status conflicted with their legal

¹ See also Keith Hopkins, 'Slavery in Classical Antiquity', in *Caste and Race: Comparative Approaches*, London 1967, 173: 'Yet the actual life situations of slaves reveal a much greater diversity than their legal status presupposed'. This 'diversity and range of occupations in public service, industry and domestic service' distinguished slaves in the Roman empire from slaves in modern America and the British West Indies (*ibid.*).

² See Norbert Brockmeyer, *Antike Sklaverei*, Erträge der Forschung 116, Darmstadt 1979, 180.

³ See Keith Bradley, *Slavery and Society at Rome*, 3rd edn., Cambridge 1997, 70.

⁴ Hopkins, 'Slavery', 173. On the blurred status boundaries between slaves and free men in late antiquity see also Brockmeyer, *Slaverei*, 214 and 220; Wiedemann, *Slavery*, 5.

⁵ Hopkins, 'Slavery', 174.

status as slaves',⁶ that is, they experienced status inconsistency. The same was true for slave teachers, doctors, secretaries, and personal advisers, who had 'responsibility as *thinking persons*'.⁷

Whether and to what extent the status of female slaves differed from that of male slaves on the basis of their gender is difficult to determine. Meillassoux has pointed out that slaves' depersonalization also led to their desexualization: 'In any social system, to be a man or a woman means to be acknowledged as having certain functions and prerogatives linked to cultural notions of femininity or masculinity'.⁸ Male and female slaves were largely excluded from these culturally defined functions and prerogatives, however. Slave women had to work in the fields like men while male slaves were employed as domestics. Female slaves were sexually exploited and could not preserve their honour as free women did. Since male slaves lacked free adult males' power and authority and could be used as sexual objects and be penetrated by them, they were feminized and identified with women to some extent. Men who adopted or were forced into the passive role of women were seen as dishonoured.⁹ Like women and children, male domestics were associated with the private sphere of the household, whereas adult Roman men were active in the public realm.¹⁰ 'As a consequence, ancient laws, social practices, and popular attitudes worked in various ways to deny the masculinity of the male slave, effacing his confusing distinction from the clearly inferior female.'¹¹ Nevertheless, female slaves were probably sexually exploited to a greater extent than male slaves were. Their status as both women and slaves probably meant a double disqualification. Freeborn women would have looked down on them and refused to show solidarity with their

⁶ Keith Hopkins, *Conquerors and Slaves. Sociological Studies in Roman History*. Cambridge, 1978, 123

⁷ Ibid.

⁸ Claude Meillassoux, *The Anthropology of Slavery: The Womb of Iron and Gold*. Chicago, 1991, 109.

⁹ See David Cohen, *Law, Sexuality and Society: The Enforcement of Morals in Classical Athens*. Cambridge 1991, 186.

¹⁰ See *ibid.* 73: 'Shut out from the public realm, a man was thrown back upon private space and classified with those who inhabited it—women, children, and slaves.'

¹¹ Sandra R. Joshel and Sheila Murnaghan, 'Introduction: Differential Equations', in Sandra R. Joshel and Sheila Murnaghan (eds.), *Women and Slaves in Graeco - Roman Culture: Differential Equations*. London and New York 1998, 9.

plight.¹² As their master's concubines they may have gained some influence, but their social status and public image would have remained very low.¹³

AGRICULTURAL AND DOMESTIC SLAVES

In Roman imperial times, when the slave supply was large and slaves were relatively cheap,¹⁴ more or less large numbers of slaves were employed by Roman landowners on their country estates. The agricultural writers Cato, Varro, and Columella 'imply that landlords used slave labour for all types of farming', in addition to free day labourers who were hired in the harvest seasons.¹⁵ Since money was invested on the purchase, upbringing, and maintenance of slaves, slave owners are advised to care for their slaves' physical well-being, to preserve their capacity to work. No such precautions were to be taken with regard to hired labourers, however, who were paid on a daily basis and could be exploited deliberately. Therefore Jones assumes 'that the maintenance of a slave was a sufficiently serious item in the landlord's budget to make him keep a small permanent staff only, and that the cost of a slave was high enough to make frequent replacements uneconomic'.¹⁶ Whereas owners of large landholdings may have assigned more specialized tasks to each of their slaves,¹⁷ those who owned a few slaves only will have required them to do whatever work was necessary.¹⁸ On large estates, some slaves held managerial posts as stewards and supervised the work force while the landlord was absent. These stewards had a superior position as mediators between the workers and the landowner and acted on the latter's authority.

¹² See Denise Eileen McCoskey, '“I, Whom She Detested So Bitterly”'. Slavery and the Violent Division of Women in Aeschylus' *Oresteia*', in Sandra R. Joshel and Sheila Murnaghan (eds.), *Women and Slaves in Graeco-Roman Culture: Differential Equations*, London and New York 1998, 38.

¹³ On concubines see Richard Saller, 'Slavery and the Roman Family', *Slavery and Abolition*, 8 (1987), 74–6.

¹⁴ The wars brought large numbers of war captives onto the slave market, see A. H. M. Jones, 'Slavery in the Ancient World', in *Slavery in Classical Antiquity: Views and Controversies*, Cambridge 1960, 9; Hopkins, *Conquerors*, 102.

¹⁵ Jones, 'Slavery', 8.

¹⁶ Ibid.

¹⁷ See ibid. 11.

¹⁸ Norbert Brockmeyer, *Antike Sklaverei*. Erträge der Forschung 116. Darmstadt, 1979, 184, therefore assumes that the situation of slaves on large estates was better than that of slaves on smaller farms. On large estates there would be a hierarchy according to the more or less specialized tasks which slaves fulfilled.

At all times, and especially in late antiquity, large numbers of slaves were employed in domestic service.¹⁹ The number of slaves in a household depended on the householder's wealth. Wealthy urban aristocrats would employ dozens or even hundreds of household slaves whose functions ranged from simple menial tasks to the more specialized skills of cooks and entertainers, with personal secretaries and assistants, who had to be well trained and educated, at the top of the hierarchy.²⁰ Such slaves would often be the 'confidential personal agent of the master in business dealings' and stand in close personal contact with him.²¹ Due to this close personal contact the master's prominence within society would affect them as well: they were regarded as his representatives who elicited respect even amongst the free. The members of the *Familia Caesaris*, the emperor's slaves, constituted the highest elite within ancient slave society.²² Once they were manumitted, they would rank amongst the *nouveaux riches*: admired because of their wealth and business skills but looked down upon because of their slave origins and lack of respectable ancestry.²³

Slaves would also work as relatively independent craftsmen in cities and larger towns. They would work on their own but give their masters a certain percentage of the money they earned.²⁴ Or they were used in certain industries such as mining, perhaps alongside other free workers.²⁵ The emperor as well as other prominent public figures would employ slaves as bodyguards or policemen.²⁶ In addition, the public service would sometimes employ slaves in administrative and secretarial positions. Their master would then be the community or the state rather than an individual.²⁷

¹⁹ See Jones, 'Slavery', 1. On the employment of domestic slaves in late antiquity see especially Ramsay MacMullen, *Changes in the Roman Empire: Essays in the Ordinary*, Princeton 1990, 236–49; Istvan Hahn, 'Sklaven und Sklavenfrage im politischen Denken der Spätantike', *Klio*, 58 (1976), 460–1; Roger S. Bagnall, 'Slavery and Society in Late Roman Egypt', in Baruch Halpern and Deborah W. Hobson (eds.), *Law, Politics and Society in the Ancient Mediterranean World*, Sheffield 1993, 232–8. See also the discussion below.

²⁰ On the hierarchy of slave's functions within large households see Bradley, *Slavery*, 67. On p. 70 he writes: 'For slaves to quarrel over who had the highest standing in the household was not unknown.'

²¹ Bagnall, 'Slavery', 233.

²² See P. R. C. Weaver, *Familia Caesaris: A Social Study of the Emperor's Freedmen and Slaves*, Cambridge 1972, 295.

²³ See Brockmeyer, *Sklaverei*, 178–9.

²⁴ See Wiedemann, *Slavery*, 33.

²⁵ See *ibid.* 39.

²⁶ *Ibid.* 43.

²⁷ *Ibid.* 41–2.

STATUS DIFFERENCES AND THEIR LITERARY EXTINCTION

In the case of skilled and educated slaves who fulfilled specialized tasks their high-status functions stood in obvious contradiction to their low status as slaves.²⁸ Some freeborn slaves were skilled and educated before they became enslaved. In other cases the masters themselves or slave dealers would send slaves to schools to learn arithmetic and writing, or to (slave) craftsmen to become their apprentices. Vocational training and the learning of basic skills such as literacy were much more common, however, than education in the liberal arts which were widely considered a privilege of the free.²⁹ Slave philosophers such as Menippus of Gadara and Epictetus must be seen as truly exceptional, whereas slave *grammatici*, pedagogues, shorthand writers, bookkeepers, actors, athletes, and physicians were more common occurrences.³⁰ Any kind of training was considered a favour granted by the master and had the practical purpose of increasing the value and usefulness of the slave.

The different values which slaves constituted for their owners are indicated by the different prices charged for them. Criteria such as age, gender, education, health played a role in this regard. Slaves of workable age would usually be more expensive than infants and children, men would cost more than women, and slaves with physical and/or mental defects would be sold at 'bargain' prices.³¹ Whereas 500 to 600 denarii seems to have been the usual price for adult slaves in the Roman Empire, 'much larger sums were paid for skilled men'.³² Horace relates that 2,000 denarii might be charged for a handsome boy educated in Greece and Columella mentions the same sum for a trained vinedresser.³³ The rabbis of the Mishnah seem to have been aware of differences in slave prices, too. They rule that in the case of a slave gored by someone else's ox, their owner should receive the amount of thirty sela from the owner of the ox (cf. Exod. 21: 32: thirty shekels of silver), 'whether he [the

²⁸ Ibid. 43.

²⁹ See Clarence A. Forbes, 'The Education and Training of Slaves in Antiquity', *Transactions and Proceedings of the American Philological Association*, 86 (1955), 323.

³⁰ Ibid. 337–42.

³¹ See Jones, 'Slavery', 9.

³² Ibid. 10.

³³ See Horace, *Epodes* 2. 2. 5; Columella 3. 3. 6. For further references to slave prices see Hopkins, *Conquerors*, 110 n. 23.

slave] was worth a maneh [one hundred] or a single denar' (M. B. Q. 4: 5).

Status differences will also have been noticeable in slaves' attire. There were no distinctive slaves' clothes, and ordinary slaves seem to have been wearing the simple and ragged clothes characteristic of members of the lower strata of society.³⁴ Others who had higher positions within the servile hierarchy will have resembled wealthier free persons in their outward appearance. This phenomenon is also revealed in ancient Jewish literary sources. The Testament of Job relates that when misfortune had befallen Job, 'my wife Sitis arrived in tattered garments, fleeing from the servitude of the official she served, since he had forbidden her to leave lest the fellow kings see her and seize her. When she came, she threw herself at their feet and said weeping: "Do you remember me, Eliphaz, you and your two friends—what sort of person I used to be among you and how I used to dress? But now look at my appearance and my attire!"' (Test. Job 39: 1–5). Sitis' decline in status is expressed in her clothing: as a slave she wears 'tattered garments' which would immediately distinguish her from the upper-class ladies she socialized with before. That slaves would wear the better quality garments of free persons of the middle or upper strata of society in exceptional cases only is also revealed in the Testament of Joseph. The Ishmaelites allegedly said to Joseph: "'You are not a slave; even your appearance discloses that." But I told them that I was a slave' (Test. Jos. 39: 1–5). This passage suggests that some slaves would be dressed like free persons and be indistinguishable from them on the basis of their attire. As a high official at the court of Pharaoh Joseph would have been dressed in expensive garments which were worn by freemen of the upper classes.

Due to the great diversity in slaves' skills, education, functions, and lifestyles, and due to major differences between the modern capitalist economy and ancient societies, scholars of Roman slavery have emphasized that slaves did not constitute an economic class in antiquity.³⁵ Max Weber and Moses Finley suggested substituting the economic definition

³⁴ See Thomas A. J. McGinn, *Prostitution, Sexuality, and the Law in Ancient Rome*, New York and Oxford 1998, 332, with references. See also DuBois, *Slaves*, 68: 'In works of art, slaves are usually recognizable by their rough haircuts, clothing differing from that of the free, and often smaller stature.'

³⁵ See Bradley, *Slavery*, 72.; Wiedemann, *Slavery*, 6–7. Against de Ste. Croix, 'Attitudes', 24, who applies the Marxist concept of a class struggle to antiquity.

of slavery by a definition based on the ancient 'value system' or 'mentality' and to view slaves as a 'status group'.³⁶ But one has to keep in mind that slaves resembled each other only in certain basic aspects and were defined as a homogeneous group by others rather than by themselves. Therefore Bradley writes: 'Yet as far as can be told there never developed among the slave population a sense of common identity—or class consciousness—that led to an ideological impulse to produce radical change in society.'³⁷ Rather, the slave population was diverse and fragmented: 'the diversity of slave jobs and slave statuses in Roman society served to disperse, not to unite, the slave population, which should never be conceived of as a solid, undifferentiated monolith'.³⁸

Status differences amongst slaves have left some traces within the literary and epigraphic sources, but they are never particularly emphasized. They stand in contrast to the strong tendency to blur out differences amongst slaves and to view them as a generic category only, from which the free male householder distinguished himself. Wiedemann has pointed out that the strong self-differentiation from slaves has its Sitz im Leben amongst adult male citizens of Greek and Roman cities. The literature written by members of the urban upper class shows that 'slavery was crucial to the way in which the citizen community defined its position':³⁹ 'In a world where the citizen was at the centre of human activity, slavery represented the opposite pole of minimum participation in humanity, and the slave came to symbolize the boundary of social existence. In other societies where citizenship and the exercise of political rights were not considered essential and central to being human, intellectuals emphasized different boundaries to full humanity.'⁴⁰ The writers were not interested in presenting slavery in a realistic way. They were rather 'using their idea of what slavery meant in order to communicate with other citizens'.⁴¹ What mattered most to these citizens was the 'symbolic significance of slavery as the negation of freedom'.⁴² Since they were dependent on other human beings, slaves stood outside of the community of adult male citizens. Citizenship was not only a political category but had much wider consequences: non-citizens were not only excluded from voting and public offices; they could also not own

³⁶ See Wiedemann, *Slavery*, 7.

³⁷ Bradley, *Slavery*, 72.

³⁸ Ibid. 73.

³⁹ Wiedemann, *Slavery*, 11.

⁴⁰ Ibid. 3.

⁴¹ Ibid. 11.

⁴² Ibid. 5.

property or marry a citizen, that is, they were subject to many limitations in everyday life.⁴³

THE BIBLICAL BLURRING OF BOUNDARIES BETWEEN SLAVES AND FREE PERSONS

A society in which the citizen does not seem to have been 'at the centre of human activity' is reflected in the Bible. There, distinctions between Israelites and other nations are much more important than those between slaves and free persons. Distinctions between Israelites and other nations are based on ethnic rather than on political-economic differences. Accordingly, slave-free distinctions within one ethnic group such as the ancient Israelites become blurred.

As already pointed out above, the Torah tries to reduce the distinction between Israelite debt slaves and free Israelites by asking slave holders to treat their Israelite slaves like free labourers and to dismiss them in the seventh year of their service or in the Jubilee year (cf. Lev. 25: 39–41; Exod. 21: 2; Deut. 15: 12). It is emphasized that the current enslavement stands in contradiction to God's liberation of Israelites from Egypt and should therefore be ignored as much as possible (cf. Lev. 25: 39–40: 'do not subject him to the treatment of a slave; he shall remain with you as a hired or bound labourer') and terminated at an early date. The remembrance of the Israelites' enslavement in Egypt and their liberation by God is emphasized over and over again and serves as a warning against enslaving oneself or other Israelites, who, on the basis of this salvation-historical event—rather than by nature—must be free.⁴⁴ Only the Canaanite slave can be treated as a proper slave, that is, in his case the distinction between free persons and slaves is maintained (cf. Lev. 25: 26: 'Such you may treat as slaves').

The example of the patriarch Joseph (Gen. 37–50) shows that the biblical authors considered slaves to be able to rise in status within the households of their employers. His brothers sold Joseph to Midianite traders for twenty pieces of silver (37: 28). Then the Midianites sold

⁴³ See Moses I. Finley, *The Ancient Economy*, 2nd edn. London 1985, 122.

⁴⁴ For references to the liberation from Egypt see e.g. Exod. 13: 3–4, 9, 14; Lev. 25: 42; Deut. 5: 15, 15: 15, 16: 12, 24: 18, 22.

him to Potiphar, the courier and chief steward of Pharaoh (37: 36, cf. 39: 1). Potiphar made Joseph 'his personal attendant and put him in charge of his household and of all that he owned' (39: 4). After interpreting Pharaoh's dreams, Joseph is promoted by Pharaoh: 'You shall be in charge of my court, and by your command shall all my people be directed; only with respect to the throne shall I be superior to you' (41: 40). As an outward sign of his newly achieved high status Joseph receives Pharaoh's signet ring and is dressed in fine garments (v. 42). He can ride in the chariot of Pharaoh's second-in-command: 'Thus he placed him over all the land of Egypt' (v. 43). His position is later described as that of a vizier of the land (42: 6). He has a house steward (44: 1) and a large number of attendants (45: 1). His manumission is never explicitly mentioned, but may be implied.⁴⁵

The story describes Joseph's development from being a victim of his brothers' evil machinations to being a hero with power and authority at Pharaoh's court. This success story cannot be taken as historically reliable, but it nevertheless exemplifies the possibility of upward mobility amongst slaves—through a change of owners and through promotion within the same household—in an exaggerated and paradigmatic way.⁴⁶ It also suggests that already in biblical times the highest ranking slaves of prominent masters were believed to be able to exert a large amount of authority within society, that their power would almost equal that of their masters in certain regards. Their high position was accompanied by a luxurious lifestyle which was far superior to that of the majority of free citizens. As such they will have elicited respect as well as fear and jealousy amongst their master's subjects, a behaviour which is exemplified by Joseph's brothers' reactions toward him: when they saw Joseph they allegedly bowed down before him and called themselves his 'servants' (42: 13, cf. 44: 18).

Another slave in a high position under a prominent master is Ziba, the slave of the house of Saul (2 Sam. 9: 2). He is said to have had intimate knowledge of the relationships in his master's family and is therefore summoned before David to advise him. Ziba 'had fifteen sons

⁴⁵ According to Jub. 46: 3, Joseph remained a slave for ten years.

⁴⁶ For lessons which later commentators drew from the Joseph story see Test. Jos. 10: 3: 'And where the Most High dwells, even if envy befall someone, or slavery or false accusation, the Lord who dwells with him on account of his self-control not only will rescue him from these evils, but will exalt him and glorify him as he did for me.'

and twenty slaves' (9: 10) and with these slaves seems to have controlled lands owned by the royal family.

It seems that in biblical times female slaves could achieve a higher status by becoming their master's concubines or by marrying him or his son. In Exod. 21: 7–11 the master's use of his Hebrew slave girl as a concubine for himself or his son is recommended:

When a man sells his daughter as a slave, she shall not be freed as male slaves are. If she proves to be displeasing to her master, who designated her for himself, he must let her be redeemed; he shall not have the right to sell her to outsiders, since he broke faith with her. And if he designated her for his son he shall deal with her as is the practice with free maidens. If he marries another, he must not withhold from this one her food, her clothing, or her conjugal rights. If he fails her in these three ways, she shall go free, without payment.

The text suggests that once the Hebrew slave girl has been used as a concubine, she is entitled to preferential treatment, even if her master is not satisfied with her any more and takes other women instead. Manumission is not mentioned as a prerequisite for such a concubinage relationship and neither is full marriage envisioned.⁴⁷ Whether masters actually heeded this recommendation is open to question. In the case of gentile slave women, who are said to have borne offspring for their Israelite masters, no advice to treat them better than other slaves is given, but this may nevertheless have been the case.⁴⁸

Amongst the Elephantine documents we find a marriage or concubinage contract for Ananiah b. Azariah and Tamut, the Egyptian slave of Meshullam.⁴⁹ There is no indication that Tamut was manumitted by her owner, she rather remained his property even after the 'marriage' had taken place. Nevertheless she seems to have been able to possess prop-

⁴⁷ On this text see Calum Carmichael, 'The Three Laws on the Release of Slaves (Ex 21,2–11; Deut 15,12–18; Lev 25,39–46)', *Zeitschrift für die Alttestamentliche Wissenschaft*, 112 (2000), 516: 'The rule takes for granted that a man is selling his daughter as a concubine to another man.' Ibid. n. 11 he points out that 'it is not a full marriage with a bride price but a secondary one with a purchase price'.

⁴⁸ See e.g. Gen. 16 and 21 (Abraham and Hagar); Gen. 30 (Jacob and Bilhah and Zilpah).

⁴⁹ See Kraeling, *The Brooklyn Museum Aramaic Papyri*, no. 2. C. J. Eyre, 'The Adoption Papyrus in Social Context', *Journal of Egyptian Archaeology*, 78 (1992), 210, stresses that such 'documents were only written because, in some way and at some time, the social context required some specific detail of the property settlement to be formally asserted and publicized'.

erty then, as suggested by the deed of a gift which Ananiah gave to his wife.⁵⁰ The status, maintenance, and property rights of the concubine and her children seem to have been established in negotiations between her husband and her owner. These negotiations could lead to a complex web of rights and obligations and multiple levels of authority.

THE AFFIRMATION OF SLAVE-FREE BOUNDARIES IN HELLENISTIC AND ROMAN TIMES

Whereas the Torah and the Elephantine documents do not seem to have been too concerned about boundaries between slaves and free persons, especially as far as Israelite slaves were concerned, Jewish literature from Hellenistic and Roman times emphasizes the contrast between the two categories but plays down distinctions between Jewish and gentile slaves. The free adult male Israelite comes to assume the role of the Greek and Roman citizen as far as his self-distinction from slaves is concerned. He is the author of all of the surviving literary texts, which accordingly represent his perspective.

Greek Jewish writers other than Philo and Josephus use the generic category of the slave only and do not seem to have been much concerned about status distinctions amongst slaves. Within this literature no text which distinguishes between Hebrew and gentile slaves is known to me. One might argue that at that time all slaves owned by Jews were gentile, but this possibility is unlikely on the basis of what Josephus tells us about Hasmonean policies.

On the one hand, Josephus is aware of the biblical opposition to the enslavement of Hebrews (cf. for example *Ant.* 8. 110: at the time of Solomon unsubmitive Canaanites were turned into serfs, 'but of the Hebrews no one was a slave, nor was it reasonable, when God had made so many nations subject to them'). On the other hand he knew, however, that Jewish slavery existed in biblical, Hellenistic, and Roman times. In *Ant.* 9. 47 he relates that after her husband's death, the widow and children of Obadiah, Ahab's steward, 'were being taken away into

⁵⁰ See Kraeling, *Papyri*, no. 4.

slavery by her creditors'. In Hellenistic and Roman times Jewish leaders are repeatedly reported to have enslaved fellow-Jews who were opposed or unwilling to submit to them.⁵¹

At Josephus' time the slave population was mixed. When Josephus writes about slaves, he is usually not interested in their ethnic origins. Whether they were of Jewish or gentile origin matters to him less than that the boundaries between slaves and free persons are properly maintained. Josephus is strongly opposed to intercourse between slave women and free Israelites, stressing the difference between the two categories (cf. *Ant.* 4. 244). Pheroras' 'mad passion' for a slave girl is criticized (*Ant.* 16. 194–5), and Zelpah and Bilhah, the two slave women given to Jacob as concubines (cf. Gen. 29: 29), are said to have been 'in no way slaves but subordinates' (*Ant.* 1. 303).

Despite the usage of the term 'slave' as a generic category, it also becomes evident from Josephus' writings that slaves did not all occupy the same status but greatly differed amongst themselves as far as their skills, functions, and roles in their master's household and society at large were concerned. For example, Josephus mentions the slave pedagogue he employed for his son (*Vita* 429). Commenting on the biblical story about the patriarch Joseph, who rose to power under Pharaoh, he assumes that he had received a liberal education, an exceptional favour granted by his master: 'This man [Pentephres] held him in the highest esteem, gave him a liberal education, accorded him better fare than falls to the lot of a slave, and committed the charge of the household into his hands' (*Ant.* 2. 39). Distinguished from such legitimately promoted slaves are those who are said to have become arrogant on the basis of their physical attributes:

In Peraea Simon, one of the royal slaves [of Herod], proud of his tall and handsome figure, assumed the diadem (*Bell.* 2. 57).

There was also Simon, a slave of King Herod but a handsome man, who took preeminence by size and bodily strength, and was expected to go further. Elated by the unsettled conditions of affairs, he was bold enough to place the diadem on his head, and having got together a body of men, he was himself also proclaimed king by them in their madness, and he rated himself worthy of this beyond anyone else (*Ant.* 17. 273).

⁵¹ See e.g. *Bell.* 1. 65 (John Hyrcanus); *Bell.* 1. 88, 1. 222, *Ant.* 14, 275 (Alexander Jannaeus); *Ant.* 14. 275, 14. 429 (Herod); *Bell.* 4. 344 (Zealots).

This story about the usurper Simon is also related by Tacitus (cf. *Hist.* 5. 9: 'post mortem Herodis . . . Simo quidam regium nomen inuaserat'). He did not succeed in his efforts, though, and was killed by Gratus in the end.

In biblical and Greek Jewish writings references to imagined reversals of fortune between slaves and masters seem to have served to confirm status distinctions between the two groups. That the reversal of the proper order of society was seen as an evil is already made clear in Qoh. 10: 5–7: 'Here is an evil I have seen under the sun as great as an error committed by a ruler: Folly was placed on lofty heights, while rich men sat in low estate. I have seen slaves on horseback, and nobles walking on the ground like slaves.' The writer is clearly on the side of the rich men and nobles, whose power is seen as legitimate, while slaves are seen as governed by lawlessness and ill will against them. Josephus ascribes the reversal of social hierarchies to evil rulers such as Caligula who 'had raised high the power of slaves [δουλοκρατία] over their masters' (*Ant.* 19. 14, cf. 19. 261). Similarly Philo writes that where virtue is properly respected, older people are given preference to younger ones, teachers to students, charitable people to those who receive charity, rulers to their subjects, masters to slaves (*De spec. leg.* 2. 226). Here, too, the status quo of hierarchical relationships is considered worthy of preservation.

On the other hand, Philo considers the distinction between wisdom and ignorance more important than the slave–free distinction and calls those 'slaves' who are governed by their passions, even if they are nobly born.⁵² He seems to reckon with the possibility that someone who is actually enslaved to a human master could be wise and therefore 'master' over free persons, when writing: 'Casting aside, therefore, specious quibblings and the terms which have no basis in nature but depend upon convention, such as "homebred", "purchased", or "captured in war", let us examine the veritable free man, who alone possesses independence, even though a host of people claim to be his masters' (*Quod omnis probus liber sit* 19). Similarly, Ben Sirach writes: 'The wise slave will have free men to wait on him, and a man of sense will not grumble at it' (Sir. 10: 25), a notion which seems to be based on Stoic thought, where wisdom becomes the main criterion for determining status, as

⁵² See the discussion above.

already pointed out above.⁵³ Instead of uprooting social hierarchies in real life, however, this way of thinking creates new, imagined hierarchies on an intellectual level which no one can contest and which do not threaten existing power-relationships. This view can probably be considered the common perspective of upper-class writers in antiquity.

Besides these imagined reversals of fortune between slaves and masters, there are some other texts which envision a status equality between the two. In her prayer to God for the Assyrians' destruction Judith says: 'Use the deceit upon my lips to strike them dead, the slave with the ruler, the ruler with the servant; shatter their pride by a woman's hand' (Judith 9: 10). Nothing can be more humiliating than treating slaves and rulers alike and to have men defeated by a woman. That slaves and free are equal in death is also mentioned in a more contemplative context in Test. Abr. 19: 7, where Death speaks to Abraham saying: 'Hear, righteous Abraham, for seven ages I ravage the world and I lead everyone down into Hades—kings and rulers, rich and poor, slaves and free I send into the depth of Hades'. The reminder of the ultimate equality between rich and poor, slave and free was probably meant as a warning against haughtiness and feelings of superiority.

SLAVE AND FREE AS GENERIC CATEGORIES

Like Greek Jewish writings and in distinction to the Bible rabbinic literature is less concerned about specifying differences between Jewish and non-Jewish slaves and more interested in the general opposition between enslaved and free persons. In rabbinic documents the term 'slave' denotes a generic category outside of the realm of free Israelites. When rabbis mention slaves these slaves are presented as a homogeneous status group. The great variety of slaves' roles, functions, and statuses within society is not reflected in the sources. Traces of status differences amongst slaves are maintained in exceptional cases only. In their presentation of slaves as a generic category and their emphasis on the distinction between slaves and free persons rabbis resemble Roman upper-class writers, mentioned above.

⁵³ On the Stoics see Garnsey, *Ideas*, 128–52. See e.g. Diogenes Laertius 7. 121: 'The Stoics say: "Only he [i.e. the wise man] is free, but the bad are slaves."'

As McCracken Flesher has shown, the Mishnah puts much more emphasis on the distinction between slaves and free persons than on that between Jewish and non-Jewish slaves.⁵⁴ The criterion for this distinction is whether someone is under another human being's control.⁵⁵ Whereas freed slaves appear at the bottom of the social-religious hierarchy envisioned by rabbis, slaves during the period of their enslavement do not figure in it at all: whether they were of Jewish origin or circumcised gentile slaves, rabbis obviously did not consider them members of the Israelite community. According to M. Hor 3: 8,

A priest precedes a Levite, a Levite an Israelite, an Israelite a *mamzer*, a *mamzer* a *netin*, a *netin* a proselyte, a proselyte a freed slave. When [does this apply]? When all are equal [with regard to their Torah knowledge]. But if the *mamzer* was the student of a sage [*talmid chakham*] and the high priest an *am ha-aretz*, the *mamzer* who is a *talmid chakam* precedes the high priest who is an *am ha-aretz*.⁵⁶

In the first statement the freed slave is considered inferior to various other categories of Israelites who are seen as deficient in some regards. The freed slave may have been placed next to the proselyte because both lacked proper Jewish ancestry. In the case of the slave, the lack of proper ancestry would be supplemented by the degradation he suffered during the time of his enslavement. In the Tosefta parallel, the hierarchical relationship between the proselyte and the freed slave is further explained: 'R. Shimon b. Eliezer says: Logically, the freed slave should precede the proselyte, for this one [the slave] grew up in holiness but that one [the proselyte] did not grow up in holiness. But [the Mishnah rules that the proselyte precedes the freed slave] because this one [the slave] is subject to a curse, but this one [the proselyte] is not subject to a curse' (T. Hor. 2: 10).

In the continuation of the Mishnah another criterion for determining status, which may conflict with genealogical distinctions, is brought up, namely Torah scholarship. Whether the *mamzer* is mentioned as an example for all of the other lower categories here or whether the rule applies to him only is unclear, but the paradigmatic nature of the

⁵⁴ McCracken Flesher, *Oxen*, 35–63.

⁵⁵ See *ibid.* 43.

⁵⁶ In the Yerushalmi version the two statements are combined: 'A priest who is an *ignoramus* precedes . . . A *netin* precedes a proselyte and a proselyte a freed slave' (y. Hor. 3: 5, 48b).

statement seems more likely. If this were the case, rabbis would even consider a freed slave who had become a Torah scholar superior to a priest or an ordinary Israelite who was an ignoramus. Rabbis' emphasis on Torah learning as a status criterion which undermined the common criteria determining one's status in the ancient world (landholdings, public office, genealogy) is reminiscent of the Stoic and Philonic emphasis on wisdom, but unlike Philo and the Stoics rabbis would apply this criterion to *freed* slaves only, if they applied it to slaves at all. Also noteworthy in this regard is the total lack of evidence of or reference to rabbinic slaves, that is, rabbis who might have been enslaved. Such a phenomenon, if it existed, was either entirely suppressed or considered unimaginable by later rabbinic tradents. In Graeco-Roman culture, on the other hand, anecdotes about enslaved philosophers, and folkloristic traditions about Plato's enslavement circulated.⁵⁷ In the Mishnah, however, Torah learning does not undermine the boundaries between slaves and free Israelites; it merely serves to elevate the status of a lower-category free(d) Israelite.

Whereas M. Hor. 3: 8 contrasts (freed) slaves and priests with each other as far as their status is concerned, in the Yerushalmi the possibility of a priestly slave or enslaved priest is raised. With regard to the possibility of superimposing new claims on the oath of an accused person, 'R. Yochanan said: [One may impose an oath on him] until he [the plaintiff] says to him: You are my slave.' The following objection raises the possibility that the accused is a priest: 'Suppose he is a priest and a Hebrew slave?!' Since such a case could theoretically occur, an alternative solution is offered: the claim that he is the plaintiff's slave is impossible during the Jubilee Year (y. Shebu. 7: 10, 38a). The rabbinic authors and transmitters of this tradition at least reckoned with the possibility that a priest might be a slave, even if the possibility seemed remote. One may assume that the Romans who enslaved Jews during the revolts would not have distinguished between priests and ordinary Jews in this regard. That the possibility of blurred boundaries between the statuses of slaves and priests was also known from earlier times is indicated by a tradition transmitted in y. Yeb. 9: 3, 9d: 'R. Yehoshua b. Levi said: Pashur b. Amar had fifty thousand slaves, and all of them were mixed up with the high priesthood, and they account for the arrogant

⁵⁷ See DuBois, *Slaves*, 153–6, with reference to Diog. Laert. 19–20.

among the priesthood'.⁵⁸ To accuse priests of genealogical connections with slaves was meant to denigrate them. The priests' alleged arrogance stands in contrast to their slave origins here.

TRACES OF DIFFERENCES AMONGST SLAVES

Despite the rabbinic emphasis on slaves as a homogeneous category in opposition to free Israelites and rabbis' lack of interest in actual differences amongst them, such differences are thematized in a few exegetical and narrative traditions: in midrashic commentaries on the Bible, in ideal master-slave stories, and in king parables. Such differentiation applies to Hebrew debt slaves (midrash), favourite slaves (ideal-master-slave stories), and royal slaves (king parables). The latter two categories will be dealt with in more detail below and are therefore mentioned only briefly here.

One context in which rabbis thematized differences amongst slaves is midrashic commentary on the biblical passages which advise slave owners to treat their Hebrew slaves better than their Canaanite slaves. Commenting on the slave laws of the book of Leviticus Sifra stresses that debt slaves who have to sell themselves into slavery because of their poverty should not be treated harshly.⁵⁹ The emphasis is on not humiliating them, respecting their professional and marriage choices, and treating them like social equals. The humiliating treatment of debt slaves of Jewish origin is also condemned in another text in Sifra: "You shall not rule over him with harshness" [Lev. 25: 42], that you shall not say to him: "Heat up this glass", and it does not need [to be heated up]. "Cool off this glass for me", and it does not need [to be cooled off]. "Stay under this vine until I shall come back." Perhaps you might say: "It is for my own need that I do this." Behold, the matter is handed over to the heart, for it is said: "but shall fear your God" (Behar parashah 6: 2). The text continues: 'Perhaps you might say: "Since you have forbidden us all of these [usages of slaves], what shall we use [to get the work done]?' ' (ibid. 6: 3). It is suggested that gentile slaves should be bought to whom no such restrictions apply.

⁵⁸ The text has a parallel in y. Qid. 4: 1, 65c.

⁵⁹ See Sifra Behar pereg 7: 2–3, 80a par. Mekhilta Neziqin/Mishpatim 1.

Another context in which rabbis thematized status differences amongst slaves is the literary form of the ideal master-slave story, which will be discussed in more detail later on. The stories about R. Gamliel and his slave Tabi can serve as an example. Tabi is presented as having been R. Gamliel's favourite slave, who was 'not like the rest of the slaves; he was worthy' (M. Ber. 2: 7). He was able to gain some Torah learning and is even called a *talmid chakham* in one of the tales (M. Suk. 2: 1). Since R. Gamliel was so close to him, he is said to have accepted condolences on the occasion of Tabi's death (M. Ber. 2: 7). Such master-slave stories are rare in Palestinian rabbinic literature but nevertheless indicate that rabbis were aware of the possibility that some slaves had a higher status in their master's household than others, on the basis of their special relationship to their masters, their education and skills.

Finally, some of the king parables transmitted in midrashic documents provide a source of information on rabbis' awareness of status differences amongst slaves. According to a proverb in Sifre Deut. 6, 'The slave of a king is a king. Hold on to something warm and it shall warm you': the slave's status depended on the status of his master, whose prominence affected him as well. Many of these parables feature slaves of kings and their relationship toward the king, his son, and other slaves. Some slaves are said to have received huge gifts from the king,⁶⁰ or were entrusted with the king's property.⁶¹ The rabbis who composed and transmitted these stories were probably aware of the special status of the so-called *Familia Caesaris*, the emperor's slaves.⁶² Although the parables are not realistic depictions of actual circumstances, they contain traces of typical behaviours the storytellers and their audience were familiar with.

THE PATRIARCH'S SLAVES

In ancient Jewish society the personal slaves of the patriarch probably occupied the highest status category amongst slaves. Especially in Palestinian Jewish society they seem to have been unrivalled, whereas

⁶⁰ Cf. Sifre Deut. 8: the slave received a field as a gift.

⁶¹ Cf. Gen. R. 96: 1.

⁶² On the special status of the emperor's slaves in Roman society see Weaver, *Familia Caesaris*.

Babylonian Jewish society seems to have similarly valued ordinary rabbis' slaves.

The halakhic reliability of patriarchal slaves is exemplified in y. A.Z. 2: 9, 42a. The discussion starts with a *baraita*, according to which 'purple-blue wool is to be purchased only on the advice of an expert'. Obviously this produce had to be prepared in a special way in order to render it ritually clean. According to the following statement attributed to two rabbis: R. Yaqob b. Acha and R. Yaqob b. Idi in the name of R. Yehoshua b. Levi, someone who sends this purple-blue wool (from abroad?) is to be considered trustworthy with regard to its purity.⁶³ The Talmud then goes on to show that one may even trust a slave in this regard. It transmits a statement attributed to R. Yaqob b. Acha in the name of R. Yassa: 'The slave of a reliable person is like a reliable person [עבד של נאמן כנאמן].' The Yerushalmi illustrates this statement with an Aramaic story about a slave of the patriarch: 'Germana, the slave of R. Yudan the Patriarch, had purple-blue wool [for sale].' The assumption is that rabbis allowed people to buy that wool from him. This is supported by the subsequent statement attributed to R. Yassa in the name of R. Yochanan, which is another version of the tannaitic ruling: 'The slave of an expert is like an expert [עבדו של מומחה כמומחה].' Although the framing halakhic statements can be applied to any halakhically reliable person who is an 'expert' in certain rabbinic rulings, the story which the Yerushalmi editors used to illustrate the rulings features the slave of the patriarch. No similar stories about the halakhic trustworthiness of ordinary rabbis' slaves are transmitted in the Yerushalmi.

It seems that the editors' choice of a slave member of the patriarch's household as an example for halakhic reliability was not made at random. The Yerushalmi transmits another story in which a slave of the patriarch was consulted in halakhic matters:

R. Zeura asked Qalah the Southerner, the slave of R. Yudan the Patriarch: Does he [R. Yudan the Patriarch] make a mixture of spices for wine on the festival day? He said to him: Yes, and every sort of roots and spices for colouring food in addition (y. Besah 1: 9, 60d).

⁶³ The following story about a child of Levi Sanbaria who sold produce—and was considered trustworthy with regard to its being properly tithed—is somewhat out of place here since it interrupts the discussion of purchasing purple-blue wool.

In this story a rabbi asks a slave, rather than the patriarch himself, concerning the patriarch's halakhic practice. The slave acts as an intermediary between the rabbi and the patriarch. The patriarch himself cannot be reached directly. The rabbi can get access to him through his slave only.

This scenario is very reminiscent of Roman literary depictions in which slaves mediate relations between the free. Fitzgerald writes: 'It was the slaves (and, in the case of the emperor, freedmen) who controlled access to the master and directed the flow of people in the house'.⁶⁴ They acted as go-betweens in political, social, and private affairs.⁶⁵ It was understood that 'the slave represented the master, which led to the awkward consequence that some slaves had to be treated with the respect appropriate to a superior'.⁶⁶ In the Yerushalmi story the patriarch is presented like a member of the Roman upper class, whereas the rabbi appears in the role of his client and supplicant, who has to pay homage to the patriarch's slave in order to learn about the master's halakhic views.⁶⁷ One may ask whether this presentation of the patriarch's slaves is not modelled after the *Familia Caesaris*: just as the emperor's slaves were considered superior to all other slaves, the slaves of the patriarch are presented as the highest-status slaves within Palestinian Jewish society.

In Babylonian Jewish society a particularly high status and halakhic reliability seems to have been associated with the slaves of ordinary rabbis as well.⁶⁸ In contrast to the Talmud Yerushalmi the Babylonian Talmud contains stories in which the slaves of rabbis appear as their master's representatives in halakhic and ritual matters (cf. b. A.Z. 39a). Ordinary community members were supposed to grant them preferential treatment. If they refused to do so or even harassed them, this was not only seen as an insult towards rabbis but as a grave offence which would eventually diminish the honour pertaining to the house of the exilarchate (cf. b. Qid. 7a–b). According to some narratives, however,

⁶⁴ Fitzgerald, *Slavery*, 57.

⁶⁵ See *ibid.* 59–68.

⁶⁶ *Ibid.* 58.

⁶⁷ Cf. the story in y. Shab. 6: 9, 8c, where Germana, R. Yudan the patriarch's slave, is said to have gone to lend money to R. Ila. The patriarch's slave is presented as wealthier than the rabbi here and the rabbi as dependent on the slave's favours.

⁶⁸ See Catherine Hezser, '“The Slave of a Scholar is like a Scholar”: Stories about Rabbis and their Slaves in the Babylonian Talmud', *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggada*, ed. Jeffrey L. Rubenstein, Tübingen 2005, 199–204.

slaves of the exilarch could freely harass rabbis without the exilarch taking any action against them (cf. b. Git. 67b–68a). This may suggest that they had an even higher status than rabbis' slaves or even rabbis themselves. Their closeness to the exilarch may have aroused jealousy in rabbis, who may have seen them as competitors for the exilarch's favours.⁶⁹

In the hierarchically organized Babylonian society which the stories represent, the rabbis' and the exilarch's slaves seem to have served as buffers between rabbis and the community, on the one hand, and the exilarch and rabbis, on the other. As representatives and intermediaries on behalf of their rabbinic masters they are the recipients of honourable as well as insulting treatment within the community. As executioners of the power and authority pertaining to their masters, they are able to either inflict pain on their masters' clients or to help and benefit them. The stark contrast between slaves and freeborn people, so common in Roman society, seems to be replaced by a more graded and variegated relationship, which allowed for the integration of slaves into freeborn Babylonian Jewish society.

As far as Palestinian Jewish society is concerned, evidence about a patriarchal slave also comes from non-literary, epigraphical sources. Two inscriptions found in the synagogue of Hammat Tiberias mention Severus, the *threptos* of the 'illustrious patriarchs'. One of these inscriptions was found on the mosaic floor in the eastern side wing of the synagogue above an Aramaic inscription which thanks all of the donors who contributed to the building of the 'holy place': 'Severus, the *threptos* of the very illustrious patriarchs, has completed [the work]. A blessing upon him and upon Ioullos the *pronoete*.'⁷⁰ In addition, Severus is mentioned in another dedication inscription in the nave of the synagogue. This inscription consists of a mosaic square partitioned into nine parts. Severus is listed together with other donors here, and all of them are mentioned by name: '... Severus, the *threptos* of the very illustrious patriarchs has made [it]. A blessing upon him, Amen ...'.⁷¹

⁶⁹ See *ibid.*

⁷⁰ Frowald Hüttenmeister, *Die antiken Synagogen in Israel*, part 1. Wiesbaden, 1977, no. 13; Roth-Gerson, *Greek Inscriptions*, no. 18; Di Segni, 'Inscriptions', no. 30.

⁷¹ Hüttenmeister, *Synagogen*, nos. 10–11; Roth-Gerson, *Greek Inscriptions*, no. 16; Di Segni, 'Inscriptions', no. 29.

It is clear that the two inscriptions refer to the same person. Severus must have been a wealthy person who contributed a lot of money to the construction of the mosaic, since he is listed by name twice in the most prominent inscriptions. The identity of the 'patriarchs' in these inscriptions and Severus' relationship to them have been the subject of much discussion amongst scholars. The patriarchs are also mentioned in the plural in the Codex Theodosianus where other communal officials are said to have been subjected to their authority, although the hierarchical relationship between the various communal offices is not always clear.⁷² The plural probably refers to the patriarchal household at large.⁷³ Severus seems to have been more than an ordinary slave within that household. In all likelihood, he was an abandoned child (*threptos*) raised in the patriarch's family. At the time of the dedication, he was probably already manumitted, which would explain his possession of property. Severus' position as a wealthy freedman of the patriarch may explain his obviously high status within the community. As the patriarch's freedman his probably gentile and servile origins will have been overlooked by the community members and leaders.

⁷² See e.g. C.Th. 16. 8. 13, 16. 8. 15.

⁷³ On the plural see Jacobs, *Institution*, 275–6.

5

Between Slavery and Freedom

THE previous chapters have shown that distinctions between slaves and free persons were far from clear-cut as far as status, work, and lifestyle were concerned. Although both Graeco-Roman and Jewish writers emphasize the legal and social distinctions between slave and free, in reality the boundaries between the two categories were rather blurred: in their dependence on the householder, women and minors often resembled slaves; many slaves worked alongside free persons or were even better educated, clothed, and nourished than the free. The personal attendants of high-standing public figures were well respected within the community. In antiquity everyone had to reckon with the possibility that he or she could become enslaved, through bad harvests and poverty, through conquests by foreign armies, or simply by being captured by kidnappers while travelling. But slaves could also hope to obtain freedom, when they had worked off their debts, when they were old and sick, or when their master was favourably disposed toward them.

In ancient society some people seem to have stood on the border between slavery and freedom, being part of both worlds but not properly belonging to either of them. This was the case with half-slaves, who worked for themselves as well as for their masters, and with freed slaves, whose former enslavement had left a lasting mark and who had to fulfil certain obligations towards their former master, at least as far as Roman society is concerned.

HALF-SLAVES

The existence of half-slaves, mentioned in rabbinic sources, could be the result either of a partial manumission of a slave by his owner or the outcome of the phenomenon that a slave could belong to two masters:

if one master released him from slavery, half of him would remain enslaved. These two explanations of the phenomenon are given in the Yerushalmi and attributed to Rabbi and anonymous rabbis, respectively (y. Qid. 1:3, 60a).

In Roman law a slave could be shared by two or more owners, but no third, intermediate category between slavery and freedom existed: 'the principal distinction in the law of persons is that all men are either free or slaves'.¹ Therefore in Roman law the category of the half-slave was absent. Westermann has pointed out that according to the classical jurists, 'the act of manumission by one of his owners of a part of a slave who was held in plural ownership was without effect. The attempt to free a part of the slave left the slave, the object of this beneficence, still a slave.'² Later Roman law determined 'that partial manumission must lead to full manumission and to fixed regulations concerning the value of the slave remainder'.³ Westermann notes, however, that in Graeco-Egyptian law partial manumission seems to have existed and 'was legally effective respecting that portion of the slave which had been freed. A concept which, under the system of strictly logical definitions set up by Roman jurisprudence, represented an impossible contradiction was, therefore, fully acceptable to the Hellenistic Greek mind.'⁴

Rabbinic traditions thematize the issue of half-slaves only sporadically, in connection with specific problems which they might be confronted with. One of the problems which a half-slave might encounter was his inability to marry a free woman (since slaves could not legally marry). A solution to this problem is suggested in M. Git. 4: 5:

He who is half slave and half free, he works for his master one day and for himself one day, the words of the House of Hillel. The House of Shammai said

¹ Alan Watson, *Roman Slave Law*. Baltimore and London, 1987, 7, with reference to Justinian's Institutes, 1. 3 pr. Slaves owned by two or more masters are mentioned in some Egyptian papyri, see L. P. Jones, 'Religious Responses, to Slavery in the Second Century CE. A Case Study in "Gnosticism"', Ph.D. thesis, Columbia University 1988, 26, with reference to P. Oxy. 4. 722 (91 or 107 CE) and P. Oxy. 4. 717 (186 CE): 'Multiple owners, whose ownership might be in unequal proportions, sometimes bought slaves to manage joint business enterprises. Investors formed partnerships to purchase slaves'. See also *Dig.* 14. 3. 13. 2 (Ulpian quoting Julian): reference to a jointly owned slave, whose masters hold unequal shares, who manages a shop. See also Shmuel Safrai and David Flusser, 'The Slave of Two Masters', *Immanuel* 6 (1976), 30-1.

² William L. Westermann, 'Enslaved Persons who are Free', *American Journal of Philology*, 59 (1938), 13.

³ Ibid. 13-14 n. 45.

⁴ Ibid. 14, with references to Egyptian papyri n. 46.

to them: You have ordered it well for his master, but for himself you did not order it well: he cannot marry a slave woman, since half of him is already free; he cannot [marry] a free woman, since half of him is still a slave. Shall [the obligation to marry] be abolished [for him]? But has the world not been created for procreation [lit.: for fruition and increase] only, as it is said: 'Not as a waste [or: chaos], but to be inhabited he created it' [Isa. 45: 18]. But for the good order of the world [מפני תיקון העולם] one forces his master to make him free, and he [the slave] writes [for his master] a deed [of indebtedness] for half his value. And the House of Hillel reverted to teach in accordance with the words of the House of Shammai.⁵

The House of Hillel presents an easy and, one might say, naive solution to the situation of the half-slave. In reality he will hardly have been able to divide his time so neatly and to work for his owner for half of the week only. But that was not the only problem which his ambiguous status incurred. The House of Shammai seems to have had a more realistic notion of the limitations which half-slaves experienced: due to their ambiguous status they can neither marry slaves nor free women. To fulfil the biblical commandment of procreation, half-slaves should be set free, but not without reimbursing the master for his valid claims: the slave is required to write a bill of indebtedness for what he owes his master and to repay it at a later time.

The solution offered by the House of Shammai seems humanitarian and pragmatic. Whether it was heeded by slave owners and whether freedmen would have been able to repay their debts is another issue. The manumission of the enslaved half is reminiscent of later Roman law, mentioned above. While the legal impossibility of a third status besides slaves and free caused Roman jurists to suggest manumission (or full slave status in earlier legal traditions), the halakhic ruling attributed to the House of Shammai has a religious-humanitarian basis: being neither slave nor free (or part of both) the slave cannot marry and procreate;⁶ if he cannot procreate, he cannot fulfil an obligation stated in the Torah, that is, his ambiguous status prevents him from observing the Torah properly. That this ruling would apply to Hebrew half-slaves only is not stated here. The inability to marry either a slave or a free woman would similarly apply to non-Jewish half-slaves. One may assume that the ruling of the House of Shammai had all half-slaves, irrespective of

⁵ The text has a parallel in M. Ed. 1: 13.

⁶ Marriage is seen as the prerequisite for procreation here.

their Jewish or non-Jewish origin, in mind. The biblical obligation to (marry and) procreate would be seen as relevant for all mankind then.

In the Mishnah half-slaves are further mentioned in connection with the eating of the Passover sacrifice: 'He who is half slave and half free shall not eat from [the Passover sacrifice] of his master', 'A slave belonging to two partners shall not eat from [the Passover sacrifice] of both of them' (M. Pes. 8: 1). The requirement for the slave's sharing in his master's Passover meal seems to have been his full subjection under the latter's authority, as specified in T. Pes. 7: 4: 'And all those who slaughtered for themselves, or on whose behalf their master slaughtered, they eat [from that] which belongs to themselves, except for the slave, who eats from that of his master'. According to the Tosefta, a Hebrew slave and someone who is half slave and half free eats from his own offering (T. Pes. 7: 5). With regard to the eating of the Passover sacrifice half-slaves and Hebrew slaves are identified with free persons then.

In the case of a slave of two masters the Tosefta rules, however, that he 'eats [the Passover offering] of both of them [ibid.], in obvious contradiction to M. Pes. 8: 1, but in harmony with the Yerushalmi. According to y. Pes. 8: 1, 35d, 'a slave of two partners needs to be invited to [the eating of] the Passover sacrifice. [If] one of them has liberated his part, the other needs to invite him to the Passover sacrifice'. The Yerushalmi stipulates that even a half-slave should be included in the Passover meal, and he is equated with the full slave in this regard. That the Yerushalmi considered the half-slave closer to the full slave than to free persons is also implied in another text which addresses the issue of a half-slave's betrothal to a woman. According to a statement attributed to R. Chiyya, a half-slave's betrothal is not considered valid: 'He who is half slave and half free [and] betroths a woman, they do not suspect betrothal'; in the case of divorce, rabbis do not suspect divorce either, since he is considered unable to marry anyway (cf. y. Qid. 1: 1, 59a).

MANUMITTED SLAVES

Another set of people whose status seems to have been ambiguous so that they were compared with slaves in some regards and with free persons in others were manumitted slaves.⁷ On the one hand, both

⁷ See also Geoffrey S. Nathan, *The Family in Late Antiquity: The Rise of Christianity and the Endurance of Tradition*. London and New York, 2000, 182.

Roman jurists and rabbis ascribed free status to manumitted slaves, that is, they considered them part of the community of free persons. On the other hand, freed slaves constituted a specific set amongst the free: because of their past enslavement they were considered deficient genealogically; certain limitations with regard to intermingling with the free applied to them. In Roman society they continued to be bound to their former masters through patron–client relationships. Although the particular type of discrimination against them differed, in both Roman and Jewish society freed slaves seem to have ‘inhabited legally, socially and morally, an in-between world’.⁸

In Roman society, freed slaves formed a special order, the *ordo libertinus*. Similarly, in rabbinic thinking the freed slave (עבד משחרר) constituted a particular category within society. As already pointed out above, freed slaves stood at the very end of the rabbinic hierarchy and were considered inferior to other types of inferior Israelites such as *mamzerim*, *netinim*, and proselytes (cf. M. Hor. 3: 8). With regard to marriage relationships and the status of their offspring, freed slaves are often seen in analogy to proselytes in the Mishnah and Tosefta.⁹

One of the limitations applying to both freed slaves and proselytes concerned marriage. In Roman society before the time of Augustus, all marriages between freeborn and freed persons were prohibited. Afterwards this restriction applied to senators and their children only.¹⁰ In Jewish society marriage restrictions existed for priests and freed slave or proselyte women. Of special interest is the following ruling: ‘A priestess [that is, woman of a priestly family], Levite, or Israelite woman who married a proselyte, the offspring is a proselyte; [if she married] a freed slave, the offspring is a freed slave’ (T. Qid. 4: 14): the children deriving from these unions automatically obtain the status of the parent of deficient status, that is, the lack of full Israelite status is imparted to later generations. Whereas a male freed slave is at least theoretically allowed to marry a woman from a priestly family, a female freed slave may not marry a priest (cf. M. Bikk. 1: 5; T. Qid. 5: 3), probably because she was suspected of sexual promiscuity, as explained in T. Hor. 2: 11: ‘On what account does everyone exert himself to marry a female

⁸ Fitzgerald, *Slavery*, 88.

⁹ See Boaz Cohen, *Jewish and Roman Law. A Comparative Study*, vol. 1, New York 1966, 146.

¹⁰ See *Dig.* 23. 2, and especially 23. 2. 23 and 23. 2. 31.

proselyte, but everybody does not exert himself to marry a freed slave woman? Because the female proselyte is assumed to have guarded herself [sexually], but the freed slave woman is [assumed to be in the status of] one who has been freely available.' That freed slaves and all those who derived from them were looked down upon becomes evident from a statement attributed to R. Yochanan in y. Hor. 3: 5, 48b: 'Do not believe a slave until sixteen generations.'

After their manumission, then, slaves seem to have been independent, though deficient and 'lower class' members of the Jewish community. In Roman society, freed slaves seem to have had a similar status. They were free but not freeborn, and the 'lack of free-birth was a disqualification'.¹¹ Even those freedmen who obtained Roman citizenship were stigmatized, as Susan Treggiari has emphasized: 'The stigma of slavery will of course be dragged in at every opportunity, and this is a stigma that not only the Senate and the rich, but the ingenuous *plebs* also, would recognize as such'.¹²

Freedmen could not become Roman magistrates or enter the higher orders of the army.¹³ Manumission did not automatically lead to Roman citizenship. Only those slaves who were manumitted in a particular way, by *vindicta*, by the census, or by a testament became Roman citizens.¹⁴ Informally manumitted slaves, that is, those who were manumitted in ways which were not statutorily recognized, were in the status of Junian Latins.¹⁵ Those slaves who had been disgraced by having been put into bonds or branded by their masters or forced to work as gladiators could not even become Junian Latins: they would obtain free status with manumission, but 'are always ranked as surrendered enemies' (Gaius, *Inst.* 1. 13). This threefold status of freedmen was abolished only at the time of Justinian.¹⁶ The disqualifications of

¹¹ Barrow, *Slavery in the Roman Empire*, 190.

¹² Susan Treggiari, *Roman Freedmen during the Late Republic*, Oxford 1969, 37.

¹³ On the various legal restrictions which applied to freedmen see *ibid.* 37–86.

¹⁴ For explanations of these forms of manumission see Watson, *Slave Law*, 24, with reference to Gaius, *Inst.* 1. 17.

¹⁵ See Gaius, *Inst.* 3.56: 'Latins, because the state made them free as if they were freeborn Roman citizens who, by migrating from the city of Rome into Latin colonies, had become colonial Latins; Junian, because they became free by the *lex Junia* even though they were not Roman citizens.' Informal modes of manumission were manumission *per epistulam* (by a letter conferring freedom) and *inter amicos* (in the presence of witnesses), see Watson, *Slave Law*, 30.

¹⁶ See Justinian's *Institutes* 1. 5. 3.

servile origin would at least legally disappear with the second generation: the children born after manumission were considered freeborn and could become magistrates.¹⁷ One may imagine that their parents' former enslavement would nevertheless cause some slander and humiliation for the children, though. This is indicated by Horace, who claims that he was haunted by the stigma of being 'born of a freedman father' (*Satires* 1. 6. 6, 45, 46; cf. *Ep.* 1. 20. 20).¹⁸

In Roman society freed slaves were legally bound to provide various services for their masters and the master had to support them in case of need.¹⁹ These services could, for example, involve the ceremony of salutation at the patron's house every morning, attending his funeral, and/or caring for his tombstone after his death.²⁰ Legally, the rights of the patron fell into three categories: 'rights of succession on the freedman's death; a right to *obsequium*, let us say "respect"; and a right to *operae*, a fixed number of days of work'.²¹ This meant that the freedman did not obtain full independence from his former master: he could not sue him for slander or physical injury or provide testimony against him in a lawsuit; a slave woman freed for the purpose of marriage with her patron could not refuse the bond.²² The number of days of work for the patron had to be agreed upon in advance, though, and were not supposed to constitute a burden equal to slavery.²³ The extent of the patron's rights, especially his right to inherit his freedman's property, also depended on the freedman's status: if he was a Junian Latin, the patron's rights were larger than in the case of freedmen citizens.²⁴

Although ancient Jewish sources never specify freedmen's legal obligations toward their masters, passages in Josephus' writings suggest that certain (informal?) obligations nevertheless existed, at least as far as the

¹⁷ See Watson, *Slave Law*, 44; Treggiari, *Freedmen*, 54.

¹⁸ See also Treggiari, *Freedmen*, 56.

¹⁹ See Barrow, *Slavery*, 190.

²⁰ *Ibid.* 193–4.

²¹ Watson, *Slave Law*, 35. Treggiari, *Freedmen*, 75, on the patron's right to *operae*: 'The privilege of imposing *operae* was one of the most valuable enjoyed by the patron.' These *operae* were specified in an oath which the freedmen took at the time of manumission. Although they become legalized in imperial times only, they were always considered a duty which the freedman owed his patron 'in gratitude for the supreme gift of freedom' (*ibid.*).

²² See Watson, *Slave Law*, 40.

²³ See *ibid.* 41. Treggiari, *Freedmen*, 81 points out that 'the law sought to strike a balance between conflicting interests', those of the freedman and those of his patron.

²⁴ See Watson, *Slave Law*, 42.

freedmen of the Herodian family were concerned. Their relationship toward their masters may have been influenced by the Roman patron-freedman model or Josephus may at least have chosen to present them that way.

Freedmen's loyalty toward their former master even after the latter's death is exemplified by the behaviour of freedmen of Pheroras, the brother of Herod. Josephus reports that 'when Pheroras was dead and buried, two of his freedmen, who had been highly valued by him, came to Herod and begged him not to leave his brother's death unavenged but to hold an inquiry into his unaccountable and unhappy demise' (*Ant.* 17. 61). Herod considers them trustworthy. They tell him that their former master Pheroras was given a poisonous love-potion a day before he fell ill. The mother and sister of Pheroras' wife are subsequently held responsible for it: 'Greatly angered by these statements, the king put to the torture the women's slaves and some of their freedwomen' (17. 63). These freedwomen were believed to have assisted their former mistresses in their evil plans. That freedmen were also expected to be present at their patrons' funerals is indicated in another text: At Herod's funeral, the troops marched in front, followed by 'five hundred of Herod's slaves and freedmen, carrying spices' (*Bell.* 1. 673).

Another area in which freedmen were expected to assist their former masters was financial support. On one occasion Agrippa was held up in Ptolemais, on his way to Italy:

Since he was restrained from doing so for want of funds, he appealed to Marsyas, his freedman, to borrow from someone and provide him with the necessary means. Marsyas thereupon bade Protos, a freedman of Agrippa's mother Berenice, . . . to provide him with the money on the written bond and security of Agrippa. Protos, however, complained that Agrippa had defrauded him of some money and forced Marsyas to draw up a bond for 20,000 Attic drachmas but to accept 2500 less. The latter yielded, since he had no alternative (*Ant.* 18. 155-7).

According to this text, Agrippa turned to his freedman when he needed money. The freedman probably felt obliged to provide him with the money he needed. He used his connections to other freedmen to obtain the required funds but became involved in a monetary conflict between the other freedman and his master. He lost 2,500 drachmas and could not complain 'since he had no alternative'.

Marsyas' service to his former master Agrippa is also described in another text. During his imprisonment, Marsyas and another freedman, Stoecheus, visited Agrippa, 'bringing him his favourite viands and doing whatever service they could' (*Ant.* 18. 204). They also prepared a comfortable bed for him out of the garments they were supposed to sell, that is, they cared for his bodily comforts: 'These things went on for six months' (*ibid.*). At the end, when Agrippa was released from prison, he allegedly thanked his freedmen for their service (*cf. Ant.* 18. 229). Agrippa is further said to have employed his freedmen as messengers: After Tiberius' death and Caligula's ascension to the throne he 'dispatched Fortunatus, one of his freedmen, to Rome, charged with presents for the emperor and letters against Herod . . .' (*Ant.* 18. 247).

According to Josephus' reports, the members of the Herodian family made various uses of their freedmen, then, whose status and role seem to have resembled those of freedmen in Roman society. Whether this type of patron–freedman relationship was limited to Jewish upper-class circles, who stood in a close relationship to upper-class Romans and were influenced by their customs, is difficult to tell. Palestinian rabbinic sources do not provide any evidence of freed slaves' continuous obligations toward their masters. Such obligations are mentioned neither in halakhic nor in narrative texts. This does not preclude the possibility, though, that slaves sometimes maintained contact with their former masters and assisted them in various regards. But such services were not fixed in terms of legal obligations, as in Roman society.²⁵ It seems, then, that in ancient Jewish society of the first centuries CE the master–freedman relationship was less regulated and open to greater variation than the Roman model suggests.²⁶

Rabbinic literature also lacks any reference to the various types of work freedmen were occupied with. Treggiari has shown that in Roman society freedmen were engaged 'in almost all types of work': 'As agents of their patrons, they were employed in all sorts of industry and trade (with the almost complete exception of agriculture), often as foremen

²⁵ See also F. Lyall, 'Roman Law in the Writings of Paul—The Slave and the Freedman', *New Testament Studies*, 17 (1970–1), 77–8.

²⁶ See also Cohen, *Jewish and Roman Law*, 146: 'A brief comparison of the laws governing the freedman in Jewish and Roman law will reveal that the freed slave was much more integrated into Jewish society than in the Roman economy.'

with slave subordinates'.²⁷ Educated freedmen were often found in administrative posts, from lower clergy positions to those which carried a lot of responsibility: 'Both education and trustworthiness fitted them for confidential posts'.²⁸ Other educated freedmen worked as scholars, teachers, doctors, and architects.²⁹ In the same way in which status differences existed amongst slaves, the *ordo libertinus* was not homogeneous either. Imperial freedmen, the members of the so-called *Familia Caesaris*, stood at the top of the hierarchy, and even amongst them internal status distinctions existed.³⁰

Rabbis' silence about status differences amongst freedmen resembles their (almost complete) silence about status differences amongst slaves: rabbis seem to have been interested in the halakhic categories of slave (עבד) and freedman (עבד משחרר) only. In addition, in Jewish as in Roman society freedmen's various types of work, and the resulting status distinctions amongst them, do not seem to have differed much from those amongst the freeborn members of society. As far as social mobility was concerned, which 'occurs at widely different rates for the different elements of slave-born society in Rome under the early Empire',³¹ rabbis must have been aware of distinctions, but they deliberately ignored them in favour of maintaining coherent halakhic categories.

Like Roman upper-class writers, rabbis did not write social history but were interested in maintaining clear-cut boundaries between slaves, freedmen, and free persons. Even if they were not all slave holders themselves, rabbis adopted the perspective of the free male slave-holding strata of society who were interested in slaves as a distinct and constantly renewable order within society. One might even argue that the very existence of slaves within ancient society made rabbis' and freeborn Romans' self-distinction from them necessary: 'faced with the slave (the absolute alien) the native had to be able to define himself juridically as a "gentle", claim his privileges as such and base his superiority on an ideology. The (negative) *state* of the slave contrasts with the (positive) *status* of the gentle'.³² By distinguishing themselves from slaves (and, at a second stage, also from freed slaves, proselytes, *mamzerim*, women, and minors), rabbis, just like male freeborn Romans, strengthened and

²⁷ Treggiari, *Freedmen*, 160.

²⁸ Ibid.

²⁹ See *ibid.* 110–35.

³⁰ See Weaver, *Familia Caesaris*, 295. For the types of offices in the emperor's service see *ibid.* 197–294.

³¹ Ibid. 295–6.

³² Ibid. 102.

defined their own male adult freeborn Israelite identity. Sandra R. Joshel has described Roman literature as 'a narrative based on exclusion': the literary sources 'do not truly represent the nonprivileged groups . . . because, quite simply, these texts were not written by those they describe'.³³ Similarly, rabbinic sources represent the values and viewpoints of their freeborn male authors. Slaves, women, and other non-privileged groups provided the background for their own self-definition but were not represented in their own right. The stereotyping of slaves and freedmen as homogeneous groups functions 'as a disguise, or mystification, of objective social relations'.³⁴

³³ Joshel, *Work*, 5–6.

³⁴ *Ibid.* 6.

Summary

In ancient Jewish as in Graeco-Roman society slaves will have had diverse religious, ethnic, and educational backgrounds, fulfilled different functions, occupied different social statuses, and maintained a variety of interpersonal relations with each other as well as with members of their masters' families. Only traces of this diversity can be found in Jewish literary sources from Hellenistic and Roman times. These texts reveal strong stereotyping and generalizing tendencies. In Jewish as in Graeco-Roman literature the slave appears as a cipher, devoid of all individual traits. The texts were written from the perspective of the free, slave-owning strata of society who were interested in distinguishing themselves from slaves in order to assert their power and identity.

The stereotyping tendencies led to the denationalization and dehumanization of slaves, although neither ethnic nor human aspects could be neglected entirely. The denationalization of slaves was a well-known aspect of slavery in Roman society and would affect Jewish society as well. It has left its traces in both the literary and epigraphic evidence and is understandable on the basis of the social conditions under which slaves lived. Whereas biblical texts distinguish between Israelite and Canaanite slaves in a number of regards, such distinctions become increasingly absent in Hellenistic Jewish and especially rabbinic writings. Like contemporary Roman writers rabbis focused on the categorical distinction between slaves and freeborn people rather than on ethnic differences between Jewish and non-Jewish slaves. Whether someone was a slave or a free person was important to them, rather than whether the slave was of Jewish or non-Jewish origin. Whereas biblical texts suggest that in biblical times slave women and their children were sometimes integrated into Israelite families, rabbis tried to protect the freeborn Jewish family from such intrusions. Like the Roman jurists, they created clear-cut boundaries between slaves and the free.

The denationalization of slaves was also based on certain socio-economic factors and cultural practices such as mixed procreation, the circumcision of non-Jewish slaves, and the requirement to adopt the master's lifestyle and religion. Especially in larger households slaves of different origins would be forced to live together. It seems that from biblical times onwards there was a strong inclination amongst Jewish slave owners to circumcise their non-Jewish male slaves. Some rabbis recommended both circumcision and immersion, the latter practice for female slaves as well. These rites should not be seen as proper conversion rites, however, since they did not make the slave Jewish, they seem to have merely purified him or her to work within a Jewish household. They are comparable with the forced baptism of slaves within Christian households. Unlike 'Jewish' slaves Christian slaves could become members of the Christian community, but a double morality seems to have ruled in regard to them. Rabbis seem to have considered slavery and Jewishness incompatible, so that not only circumcised non-Jewish slaves but also Jews who had become enslaved or had enslaved themselves were not considered Jewish: during the time of their enslavement they were subjected to another master besides God, a transgression of the Exodus experience (the Israelites' liberation from slavery) and of the basic principle of Jewish monotheism (the exclusivity of the Jewish God).

The blurred boundaries between originally Jewish and originally non-Jewish slaves in the Jewish literature of Hellenistic and especially Roman times also left traces within inscriptions. In inscriptions mentioning slaves or freed(wo)men the Jewish or non-Jewish origin of the slave is usually unclear. Slaves were renamed by their owners, they married outside of their original religion, and probably also adopted their owners' lifestyle and culture. Slaves would necessarily be exposed to the religion and culture of their owners, they were considered 'blank slates' onto which owners could inscribe their own identity to render the slaves extensions of themselves. Therefore it is unlikely that Jewish slaves in Roman households would have been able to continue their Jewish practices and that pagan slaves 'brought under the wings of the *Shekhinah*' could continue to worship their Roman (or Christian) gods. The respective religious (and political) leaders' protests are unlikely to have undermined this long-established practice.

The second form of stereotyping, which was related to denationalization, was to view slaves as objects, as property similar to animals, that

is, to dehumanize them. This tendency is also visible in ancient Jewish literary sources. It allowed masters to use their slaves in an exploitative way. Nevertheless, the humanity of slaves could not be denied entirely. In some respects it was not even advantageous to do so: only if slaves were able to distinguish between right and wrong could one blame them for the damage they committed without the master's knowledge.

The recommendation to view slaves as human beings and to treat them accordingly is especially found in the Stoics' and Philo's writings. It is based on their distinction between physical and spiritual slavery, the latter being the far more serious evil. A slave who was striving for wisdom could be spiritually free, whereas a wealthy, prominent member of society could be enslaved to his passions. On the one hand, this view would induce fellow-philosophers to treat slaves as their friends and equals; on the other hand, it would serve to maintain the status quo.

Philo and Josephus were outspoken opponents of the natural slave theory, promulgated by Aristotle amongst others, which maintained that certain nations were born to be slaves. Their opposition to the theory may have been due to the fact that Jews were often identified with slaves by Greeks and Romans in antiquity. Instead of believing in the genetic transmission of slavery within certain ethnic groups, they viewed slavery as the consequence of bad fortune or as a punishment inflicted by God.

Slaves are often associated with women and minors in both ancient Jewish and Graeco-Roman literary sources. This association was based on slaves', women's, and minors' identification with the private domain, their lack of property, and total dependence on the *paterfamilias*. They were considered unruly and potentially dangerous, so that their behaviour had to be controlled. Rabbinic halakhah excludes women, slaves, and minors from a number of religious obligations and observances pertaining to male adult Israelites. These halakhic rules seem to be based on actual social, economic, and ideological similarities. The fact that both similarities and differences existed between these groups led to ambiguous relationships amongst the members of the household.

Despite the categorical distinction between slaves and free people in Graeco-Roman and ancient Jewish society, certain in-between categories

of people who stood between slavery and freedom were legally recognized as well. Rabbinic law knows of the category of the half-slave, the result of partial manumission by one of two owners. Both Roman and rabbinic law discuss the third category of the freedman whose continued obligations toward his masters are specified in Roman but not in rabbinic sources.

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PART II
SLAVES AND THE FAMILY

In late antiquity the employment of slaves in agriculture seems to have declined throughout the Roman Empire as other forms of farming, especially tenant labour, came to be considered more profitable by estate owners. Domestic slavery, on the other hand, continued to be taken for granted and seems to have been pervasive in Roman Italy as well as in the provinces in the first four or five centuries CE. The predominance of domestic slavery means that slaves would be found in cities rather than in the countryside, since the slave-owning strata of society were mostly resident in urban environments. Although the nature of the sources prevents us from determining the precise ratio of agricultural and household slaves in Roman Palestine, it seems that at least in post-70 times domestic slavery prevailed.

In families which could afford them, slaves would form an integral part of the household. One may assume that the existence of slaves within the household had a major impact on relationships and power structures within the family. Saller has suggested that as a consequence of domestic slavery 'the sense of familial obligation and affection was diffused in a way to weaken the bonds between father, mother, and children in the larger unit'.¹ Children may have had more intimate relationships with their nurses and pedagogues than with their parents; husbands may have had more sexual contacts with their female slaves than with their wives. By fulfilling a variety of functions within the household, slaves would have had an impact on the family economy as well. Their employment in the family business would release the wife from participating in household production so that 'close cooperation between husband and wife disappeared'.² Slaves' upbringing and education of children would diminish parents' impact on their offspring's mental and moral development.³ Issues such as these, which have already been addressed by a number of scholars with regard to the ancient Roman family, will have affected the ancient Jewish family as well.

¹ Richard Saller, *Patriarchy, Property, and Death in the Roman Family*, Cambridge 1994, 95.

² Richard Saller, 'Slavery and the Roman Family', *Slavery and Abolition*, 8 (1987), 77.

³ See Keith Bradley, *Discovering the Roman Family: Studies in Roman Social History*, New York and Oxford 1991, 55.

6

Slaves within the Household

JONES has pointed out that probably at all times a large proportion of slaves was employed in the domestic service, 'for, by and large, personal servants were always slaves'.¹ The number of domestic slaves employed in a household depended on the householder's wealth. While rich Greeks and Romans had hundreds or even thousands of household slaves, smaller numbers of servants were probably found in the houses of the less well-to-do as well. According to Tacitus, Pedanius Secundus, who was a prefect at the time of Nero, had a slave staff of four hundred members in his town house (*Ann.* 14. 43). Demosthenes assumed that at his time even the poorest peasant farmer would own a maidservant (*Dem.* 24. 197). In later Roman times Libanius, John Chrysostom, and Augustine took the possession of household slaves for granted and viewed the lack of them as a sign of poverty.² Libanius commiserates with rhetoricians who possessed two or three slaves only.³ John Chrysostom maintains that a priest who lacked a slave would 'bring shame on himself' and could not be respected properly within society.⁴ Augustine believed that even the poorest man might own a number of slaves.⁵ Rabbis similarly considered the ownership of at least one slave appropriate even for a poor person of high birth, as indicated by a tannaitic tradition transmitted in y. Peah 8: 8, 21a: 'A story concerning Hillel the Elder who took to a poor person, the son of distinguished parents, a horse to work with and a slave for his use'.

¹ A. H. M. Jones, 'Slavery in the Ancient World', in *Slavery in Classical Antiquity: Views and Controversies*, Cambridge 1960, 1.

² See Ramsay MacMullen, *Changes in the Roman Empire: Essays in the Ordinary*, Princeton 1990, 239; Geoffrey S. Nathan, *The Family in Late Antiquity: The Rise of Christianity and the Endurance of Tradition*, London and New York 2000, 169.

³ Libanius, *Or.* 31. 11.

⁴ Cf. John Chrysostom, *In ep. ad Philipp. II, Hom.* 9. 4 (PG 62. 251).

⁵ Augustine, *Serm.* 356. 6.

DOMESTIC SLAVERY IN LATE ANTIQUITY

Especially in late antiquity, when the employment of slaves in agriculture seems to have declined, slaves were still found in the domestic sphere, where 'they remain predominant'.⁶ MacMullen has pointed out that in Roman–Byzantine times, from the second to the fifth century CE, slaves are mostly represented in the epigraphy of the cities and were employed in the domestic service, in crafts, and in administrative positions.⁷ He maintains that this general picture holds true for Syria and Palestine as well: 'In the Levant of the Principate, while commerce in slaves is amply attested along with large households of them in Palestine, there is otherwise nothing known; but for the period after 350 and especially in and around Antioch, the sources are exceptionally rich and the picture exceptionally clear: slaves were abundant in the city, very rare in the countryside.'⁸ In early second-century CE Egypt, for example, an Alexandrian grandee would employ more than a hundred slaves in his country residences.⁹ In the third and fourth century domestic slavery seems to have continued, whereas references to agricultural slaves are rare.¹⁰ With regard to the Roman Empire at large, MacMullen estimates that in the rural regions and smaller towns slaves 'amounted to only a few percent at any point in the first four and a half centuries of the era, while in the middle-sized or larger cities the picture we have seems to accord with a figure approaching 25 percent' of the general population.¹¹ One may assume that this estimate will have varied for the different regions, though.

As far as Egypt is concerned, Roger Bagnall has suggested focusing on 'the structural place of slaves in Egyptian society of late antiquity' rather than estimating the number and percentage of slaves on the basis of the spare epigraphic evidence available.¹² Most domestic slaves are men-

⁶ Moses I. Finley, *Ancient Slavery and Modern Ideology*, London 1980, 149. See also Norbert Brockmeyer, *Antike Sklaverei*, *Erträge der Forschung* 116, Darmstadt 1979, 221.

⁷ MacMullen, *Changes*, 236–45.

⁸ Ibid. 238–9. Cf. F. M. Heichelheim, 'Roman Syria', in Tenney Frank (ed.), *An Economic Survey of Ancient Rome*, vol. 4: *Africa, Syria, Greece, Asia Minor*, Paterson 1959, 165.

⁹ See MacMullen, *Changes*, 239.

¹⁰ Ibid. 240.

¹¹ Ibid. 245.

¹² Roger S. Bagnall, 'Slavery and Society in Late Roman Egypt', in Baruch Halpern and Deborah W. Hobson (eds.), *Law, Politics and Society in the Ancient Mediterranean World*, Sheffield 1993, 222 and 226.

tioned in connection with members of the upper classes in the sources: 'Even though production was hardly affected at all by slave labor, then, the importance of slave assistance for the ability of a small elite to manage business, civic, and military affairs should not be underrated.'¹³

Although domestic slaves sometimes participated in the household economy, their economic productivity was not the main reason for their employment. Keith Hopkins has pointed out that the major importance of domestic slavery 'lay... in its support of the superior living standards of the well-to-do'.¹⁴ Slaves enabled the rich to lead a comfortable life of leisure and luxury. And even in less wealthy households they freed the family members from having to perform menial tasks such as shopping for food, cooking, and cleaning the house. In addition, domestic slaves served as a status symbol, indicating their owner's wealth, prominence, and prestige.¹⁵ Being accompanied by one's slaves in public was an indispensable sign of being a respectable citizen. The larger the slave entourage, the greater the owner's power and authority: 'owning slaves always served to express *potestas* in a society highly sensitive to gradations of status, esteem and authority'.¹⁶

THE ANCIENT JEWISH HOUSEHOLD

By definition the Roman household, which was called *domus* or *familia*, included slaves and freedmen.¹⁷ The term *familia* could be used for the slaves only, whereas the term *domus* was broader, including free and unfree members of the family.¹⁸ The *paterfamilias* was the head of the *domus* and exercised authority over all of its members. As already pointed out above, his power over his slaves at the same time resembled and was different from his power over his wife and children. Despite the broad definition of the Roman household, the nuclear family constituted its centre. One may, perhaps, envision the household as consisting

¹³ Ibid. 233.

¹⁴ Keith Hopkins, 'Slavery in Classical Antiquity', in *Caste and Race: Comparative Approaches*, London 1967, 172.

¹⁵ See Keith Bradley, *Slavery and Society at Rome*, 3rd edn., Cambridge 1997, 14. See also William Fitzgerald, *Slavery and the Roman Literary Imagination*, Cambridge 2000, 5.

¹⁶ Bradley, *Slavery*, 30.

¹⁷ See Saller, *Patriarchy*, 75, with reference to Ulpian, *Digest* 50. 16. 195. 1-4.

¹⁸ See *ibid.* 81.

of concentric circles, with the householder, his wife, and children at the centre, surrounded by slaves and, at a further distance, extended kin.¹⁹ This pattern becomes evident in funeral inscriptions which were, in the first place, set up by and for members of the nuclear family: 'Dedications to spouses, parents, children and siblings are most common among the tens of thousands of surviving Latin inscriptions. After bonds within the nuclear family, bonds with household dependents such as slaves and freedmen are most frequently represented.'²⁰

In tannaitic literature the term *בית* ('house', 'household') can be considered the Hebrew equivalent of the Roman *domus*. The priestly houses mentioned in the Mishnah and Tosefta appear in connection with particular Temple-related tasks assigned to them and are likely to have included slaves.²¹ Unlike the houses of Hillel and Shammai, which are presented as Torah study and discussion groups, that is, as schools, the houses of R. Gamliel, R. Shimon b. Gamliel, and R. Chaninah are mentioned in connection with more mundane practices, all of which concern household tasks: the baking of bread, the washing of clothes, the soaking of lentils, and the setting up of candlesticks.²² No halakhic traditions are transmitted in the name of these houses and there is no indication that they were engaged in Torah study and teaching. This does not exclude the possibility, of course, that the practices of these households were halakhically significant and were brought up in rabbinic discussions on particular issues.²³ Nevertheless, the term 'house' stands for 'household' and not for 'school' here. The phenomenon that 'houses' are associated with particular rabbis only may indicate that only the most prominent (and wealthy?) rabbis were believed to have possessed a slave *familia* which fulfilled certain menial tasks for them.

¹⁹ See Saller, *Patriarchy*, 227. ²⁰ Ibid.

²¹ See Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine*, Texts and Studies in Ancient Judaism 66, Tübingen 1997, 308–9. Slaves of priests are repeatedly mentioned in tannaitic sources, see e.g. M. Ar. 2: 4: the slaves of priests played musical instruments in the Temple; M. Ar. 8: 4: one may dedicate Canaanite slaves to the Temple (cf. Lev. 27: 28), but not Hebrew slaves; M. Zeb. 5: 6: heave offering can be eaten only by the priests, their wives, children, and slaves (cf. Lev. 10: 14); T. Men. 13: 21: reference to the slaves of the house of Yishmael b. Phiabi, a high priestly family, who 'come and beat us with staves'.

²² Baking bread: M. Bez. 2: 6 par. M. Ed. 3: 10; washing clothes: M. Shab. 1: 9; soaking lentils: T. Bez. 1: 22; setting up a candlestick: T. Bez. 2: 12.

²³ See Alexei Sivertsev, *Private Households and Public Politics in 3rd–5th Century Jewish Palestine*, Texts and Studies in Ancient Judaism 80, Tübingen 2002, 131–4.

That both children and slaves were believed to be members of the family becomes clear from a number of tannaitic texts which refer to children and the 'members of his house' (**בני ביתו**) side by side:

One who brings figs through his courtyard in order to spread them out for drying, his children and the members of his house [**בניו ובני ביתו**] eat them and are exempt [from tithing]. The workers who are with him, at the time when they do not have [a claim to] maintenance from him, they may eat and are exempt [from tithing]; but if they have [a claim to] maintenance from him, behold, they may not eat (M. Maas. 3: 1).

The householder's free labourers are distinguished from his dependent slaves and children here. According to M. Shab. 23:2, guests who take part in the Passover meal join the household:

[When passover coincides with the Sabbath] one may count the number of one's guests and the savory portions [of the Passover lamb] orally, but not in writing. And one casts lots with one's children and the members of one's house [**עם בניו ועם בני ביתו**] at the table [to decide who gets which portion of the lamb].²⁴

Elsewhere in the Mishnah the term **בן ביתו** ('member of his house') is used exclusively for domestic slaves: 'He who gave permission to a member of his house, either to his male or to his female slave [**את בן ביתו או את עבדו או את שפחתו**] to separate heave offering...' (M. Ter. 3: 4). Although one could also read, 'to a member of his house, to his male or to his female slave', thus distinguishing between three different categories and identifying 'members of his house' with the householder's wife and children, on the basis of the tannaitic usage of the term (see the examples above) the translation presented here seems preferable.

In amoraic traditions the 'houses' of rabbis are usually depicted as occupied with Torah study and the transmission of rabbinic traditions.²⁵ According to Aharon Oppenheimer, the house of R. Yannai, to which various teachings are attributed, was the study house of R. Yannai in Akhbarah, which was organized like a religious kibbutz

²⁴ See also M. Hal. 4: 11: Joseph the priest 'even brought his children and the members of his house [**את בניו ואת בני ביתו**] to celebrate minor passover in Jerusalem'.

²⁵ See Hezser, *Social Structure*, 311–12, for references.

combining Torah study with agricultural work.²⁶ Although the identification of these later amoraic houses as study circles seems to be correct, little can be said about their organizational structure and activities. Perhaps the term 'house' was used in its broader meaning in amoraic texts: just as the outermost circle of the Roman *domus* could comprise extended kin, clients, and friends, the amoraic בית ('household') encompassed rabbis' students. Students who 'served' their teachers may have lived within their teacher's household and participated in all family activities. Their 'service' (שימוש חכמים) is presented as similar to the service of slaves in some regards.²⁷ It would seem only natural then that a rabbi's close circle of students should be considered part of his household.

Miriam Peskowitz has suggested seeing the ancient Jewish family as a cultural construct 'subject to intervention and influence by those holding social powers'.²⁸ As a cultural concept, the ancient Jewish family will have been influenced by the model of the Roman family as well as by traditional Jewish notions of family life. Just as Roman jurists tried to control family life, rabbis tried to regulate various aspects of the Jewish household and 'carefully molded systems of social rules'.²⁹ To what extent they were successful in imposing their views on their fellow-Jews is questionable, though. Their visions of ideal Jewish family life may have been mere theoretical models which no one but they themselves and their closest adherents followed. The representativeness of rabbinic discourse for ancient Jewish society at large cannot be determined.

Socio-economic differences will have had an impact on relations within the household. Whereas wealthy upper-class families seem to have strictly guarded the boundaries between public and private space and viewed the latter as the sphere of women, children, and slaves, less

²⁶ Aharon Oppenheimer, 'Those of the House of R. Yannai' (Heb.), *Studies in the History of the Jewish People and the Land of Israel*, 4 (1978), 137–8.

²⁷ See also Sivertsev, *Private Households*, 128. Sivertsev's conclusion that because of certain overlapping roles 'the distinction among various subordinate positions within the household (such as slaves, students, or even friends and clients) was virtually non-existent' (ibid. 130) cannot be supported, though.

²⁸ Miriam Peskowitz, "'Family/ies' in Antiquity: Evidence from Tannaitic Literature and Roman Galilean Architecture", in Shaye J. D. Cohen (ed.), *The Jewish Family in Antiquity*, Brown Judaic Studies 289, Atlanta 1993, 17.

²⁹ Ibid.

well-off families will have been unable to maintain this distinction.³⁰ The crowded living conditions of ancient apartment buildings (*insulae*) forced non-related families to interact with each other in shared courtyards and to participate in each other's family life. Workshops and shops in residential areas would bring a steady flow of strangers (business partners, clients) into the house. Lower-class women were forced to work to increase the family's income and would inevitably cross private-public boundaries. Peskowitz has therefore stressed that as far as the lower strata of society are concerned, the Jewish family should be understood as a 'working group'.³¹ Working and living conditions of the lower classes in Roman Palestine point to the 'socio-economic interrelationality' of Jewish families.³²

As small social units within the larger civic community households constituted microcosms in which one's social and cultural identity was developed and maintained. Richard Saller has pointed out that 'the house symbolized a Roman's political power and prestige... Within his *domus* a Roman daily exercised power over his dependents and slaves, and it provided the symbolically charged stage on which he managed the relationships with the outside world that extended his influence.'³³ The hierarchical relationships within the family mirrored the hierarchical structure of Roman society as a whole. The same considerations hold true for ancient Jewish society and point to the importance of studying the ancient Jewish household and the roles and functions of slaves within it more carefully.

SLAVES OR FOSTER-CHILDREN?

In a number of Greek inscriptions of certain or possibly Jewish origin from both the Diaspora and the Land of Israel the term *threptos* or pl. *threptoi* appears. Since the translators and editors of these inscriptions

³⁰ On the distinction between private and public space in Roman culture and the Talmud Yerushalmi see Catherine Hezser, "'Privat" und "öffentlich" im Talmud Yerushalmi und in der griechisch-römischen Antike', in Peter Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 1, Texts and Studies in Ancient Judaism 71, Tübingen 1998, 424 ff.

³¹ Peskowitz, 'Family/ies', 34.

³² Ibid. ³³ Saller, *Patriarchy*, 227.

were uncertain about the meaning of the term, a variety of different translations have been offered: 'slaves', 'servants', 'domestics', 'sons', 'foster-children', 'students'. In the Graeco-Roman cultural context the term, whose Latin equivalent is *alumni*, seems to have usually referred to abandoned children, that is, to children who were exposed by their parents and reared by their finders as either slaves or foster-children or both.³⁴ In his letter to Trajan, Pliny defines *threptoí* as 'ii, qui, liberi nati, expositi, deinde sublatis a quibusquam et in servitute educati sunt' ('those who, born free, were exposed, then picked up by someone and brought up in slavery').³⁵ Less frequently, the term could refer to adopted children or home-born slaves (cf. the Latin *vernae*).³⁶

It has to be noted at the outset that the number of Greek Jewish inscriptions containing the term *threptos* in its various forms is rather limited. Most of the evidence comes from the Diaspora, with a handful of *threptos*-inscriptions from Rome, Syria, and the Bosphorus kingdom. Only three *threptos*-inscriptions from Roman Palestine are known to me. The reason for the rare occurrence of the term may be similar to the reason for the almost complete lack of inscriptions mentioning slaves or freed(wo)men.³⁷ To have been a slave or former slave was not something one would have been proud of and wanted to memorialize for future generations. Similarly, to have been a *threptos* is likely to have been a sign of ill-repute. Under these circumstances it is all the more striking that

³⁴ See John Boswell, *The Kindness of Strangers. The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance*, London 1988, 118: 'In all of the available sources—epigraphical, legal, and literary—the same various, multi-layered picture of the position and role of the *alumni* emerges. Some were servants, some thought of as children, some both. Some were used as gladiators, but many were manumitted or adopted.' See Teresa Giulia Nani, 'ΘΡΕΠΤΟΙ', *Epigraphica*, 5–6 (1943–4), 59: the term is not a legal designation but 'indica un bambino od un adulto che è, od è stato nutrito, allevato, da altre persone che non siano i suoi genitori'. For the meaning of the term in the Bosphorus inscriptions see Ch. 14 below.

³⁵ Pliny, *Ep.* 10. 65.

³⁶ Only two inscriptions and two papyri out of approximately 230 references examined by Nani, 'ΘΡΕΠΤΟΙ', fall into this category.

³⁷ See Gideon Fuks, 'Where Have All the Freedmen Gone? On an Anomaly in the Jewish Grave-Inscriptions from Rome', *Journal of Jewish Studies*, 36 (1985), 30: 'Of more than 500 Jewish grave-inscriptions from Rome, not one attests that the deceased was either a slave or a freedman.' The names of the deceased suggest, however, that at least 10 per cent of them were manumitted slaves. Fuks believes that the direct mention of them may have been deliberately avoided (*ibid.* 32). See also Leonard Victor Rutgers, *The Jews in Late Ancient Rome: Evidence of Cultural Interaction in the Roman Diaspora*, Leiden 1995, 167.

threptoi are mentioned in at least some inscriptions. These inscriptions seem to be exceptional and therefore require closer examination.

The most famous *threptos*-inscriptions, the donors inscriptions from the Hammat Tiberias synagogue which mention Severus, the *threptos* of the patriarchal family, have already been discussed above.³⁸ Here we shall look at three *threptos*-inscriptions from Rome which were published by Frey but have been transcribed and translated anew by David Noy. The first of the three inscriptions is engraved onto a marble plaque, decorated with various symbols (birds, hut, palm tree/*lulav*), which was allegedly found in a catacomb at Vigna Randanini in an excavation carried out in 1862. It has been tentatively dated to the third to fourth century CE and reads:

Alexandria for Severanus her own *threptos*, having lived the common life well for 27 years. In peace [be] your sleep.³⁹

The usage of the possessive pronoun 'her own' (*τῷ ἰδίῳ*) and the reference to Alexandria's and Severanus' 'common life . . . for 27 years' suggests a very close and intimate relationship between them. It seems to exclude the possibility that Severanus was an ordinary slave in the household of Alexandria, although as a foster-child he may have fulfilled certain servile functions as well. The inscription suggests that those *threptoi* who were reared as 'adopted' children and towards whom their foster-parents had developed a close emotional relationship were the ones who merited inscriptions.

The usage of *ιδίος* together with *threptos* appears in another inscription from Rome as well. An inscription on a marble plaque from the Via Salaria, found in 1795 above the Catacomb of Pamphilius and dated to the third to fourth century CE reads:

Menander [had this] made for his own *threptos* Justus. In peace [be] his sleep.⁴⁰

The final formula, 'In peace [be] your/his sleep', also appears in the previously mentioned inscription set up by Alexandria for Severanus. In

³⁸ See Ch. 4.

³⁹ Translation in accordance with the transcription by David Noy, *Jewish Inscriptions of Western Europe*, vol. 2: *The City of Rome*, Cambridge 1995, no. 246. C. P. Jean-Baptiste Frey, *Corpus Inscriptionum Iudaicarum*, vol. 1, Rome 1936, no. 144, offers a slightly different transcription of the text. Noy's reading seems preferable, though.

⁴⁰ Frey, *Corpus*, vol. 1, no. 3, and Noy, *Jewish Inscriptions*, vol. 2, no. 531. Their transcriptions are identical.

both cases the foster-parents and the foster-children bear non-Jewish names, a phenomenon which does not have any significance with regard to their Jewish or non-Jewish origin, though. Greek and Latin names were common amongst Roman Jews and appear in many funerary inscriptions. Nevertheless, the foster-children Severanus and Justus could also have been exposed children of an originally non-Jewish origin raised in a Jewish household.

The issue of religion is explicitly mentioned in another inscription in which the reference to a *threptos* is likely but uncertain. The inscription is written on a marble plaque which was found in a catacomb in the Villa Torlonia and has been dated to the third to fourth century CE:

Irene, *threpte* [?], proselyte, of father and mother, Jewess [and] Israelite. She lived 3 years 7 months 1 day.⁴¹

This inscription is unusual in a number of regards, as Noy has already pointed out.⁴² The reference to proselytes is rare in Greek inscriptions. While *τρεπτη* has generally been accepted as a variant of *θρεπτη*, this particular form has no parallels. Furthermore, the reference to a *threpte*'s father and mother is striking. The inscription is difficult to understand, since it is unclear to whom the designations 'proselyte,' 'Jewess,' and 'Israelite' refer. The seeming contradiction between a proselyte with a Jewish mother can be resolved if we assume that Irene was an adopted child. As a *threpte* she is likely to have been a non-Jewish abandoned child found and raised by a Jewish family.⁴³ This assumption also solves the problem of a 3-year-old child being presented as a proselyte, an oddity already pointed out by Noy. Her being raised by Jewish foster-parents as an adopted child may have justified her designation as a proselyte, without specific conversion rites involved. That her foster-parents' Jewishness and her own status as a proselyte are mentioned in the inscription seems to indicate that the family was religiously committed and concerned about the public expression of their Jewish identity.

Another inscription from Rome reveals the close emotional relationship which sometimes existed between foster-parents and their adopted

⁴¹ Frey, *Corpus*, vol. 1, no. 21; Noy, *Jewish Inscriptions*, vol. 2, no. 489. Translation in accordance with Noy.

⁴² Noy, *Jewish Inscriptions*, vol. 2, p. 391.

⁴³ See also Nani, 'ΘΡΕΠΘΟΙ', 78.

children. In an inscription on a fragmented marble plaque decorated with a menorah, found in the Monteverde catacomb and tentatively dated to the third to fourth century CE the term *τροφευς*, foster-father, appears, whereas the adopted child is simply referred to as *τεκνον*, child:

If only I who reared [?] you, Justus my child, could place you in a golden coffin. Now, Lord, [let] his sleep [be] in peace. [Receive?] the infant Justus, incomparable in [the observance of] your ordinances. Here I lie, Justus, aged 4 years 8 months, being dear to my foster father. Theodotus the foster father for [his] dearest child.⁴⁴

Noy notes that 'the epitaph has considerable literary pretensions', being formulated in a poetic style.⁴⁵ Although the commemorator indicates that he is not Justus' native father, he calls him his 'child' and 'infant'. This phenomenon is reminiscent of Irene's foster-parents identifying themselves as her father and mother in the previously discussed Villa Torlonia inscription. The emphasis on Justus having been 'incomparable in [the observance of] your [i.e. God's] ordinances' may indicate that he was originally non-Jewish but reared in an observant Jewish household. Otherwise the reference to the Torah observance of a 4-year-old child does not make much sense. It is obvious that Theodotus loved Justus as much or even more than the children borne by his wife. The exaggerated language of the inscription ('golden coffin', 'incomparable', 'dearest') may have been due to the fact that such a close relationship between a *threptos* and his father/master was exceptional.

In all of these inscriptions from Rome the *threptoi* seem to have been foster-children, infants who were found and reared in the finder's household. Some of the children died at a very young age and can hardly have worked as slaves. The fact that the foster-parents commemorated their adopted children in epitaphs already indicates the close emotional relationship between them. It seems, then, that *threptos*-inscriptions were set up in those—probably rare—instances where *threptoi* were reared as children rather than as slaves. This does not exclude the possibility that they would also be used as slaves within the household once they had reached a suitable age.

⁴⁴ Noy, *Jewish Inscriptions*, vol. 2, no. 25. Cf. Frey, *Corpus*, vol. 1, no. 358. Translation in accordance with Noy.

⁴⁵ Noy, *Jewish Inscriptions*, vol. 2, p. 30.

Child exposure was widely practised throughout Roman and early Byzantine times. One may assume that it was particularly widespread in times of economic hardship due to military defeats, bad harvests, droughts, famines, and heavy taxation. Yet poverty was not the only reason for the abandonment of one's children. Since ancient birth control methods were scarce and sometimes ineffective, child exposure was a customary means of limiting the number of children and potential heirs within a family. As such it was not only practised by the poor but by the wealthy land-holding strata of society as well.⁴⁶ A father had the right to decide whether or not he wanted to raise a child in his household, even if it was born to his lawful wife. This right was part of his *patria potestas*.⁴⁷ Child exposure was never legally prohibited in Roman law.⁴⁸ Although Roman citizens were expected to produce heirs, especially if they belonged to the upper classes, the number of children and heirs raised in a household was not—and probably could not be—regulated by the state.

Children were usually exposed shortly after their birth. If they survived exposure, the person who found them could do with them whatever he or she wanted. Slave dealers were most likely to take on such children, and even if they were found by respectable people, they would usually raise them as slaves.⁴⁹ Therefore it is unlikely that slave mothers would have often exposed their newborn babies.⁵⁰ They must have reckoned with the possibility that their exposed children would be found by slave dealers and restored to the same slave status they already had at birth. They would become the slaves of another master only, and the (slave) family would be divided. If slave women wanted to avoid having children, they

⁴⁶ See Saller, 'Slavery', 69; William V. Harris, 'Child-Exposure in the Roman Empire', *Journal of Roman Studies*, 84 (1994), 1–22; Mireille Corbiers, 'Child Exposure and Abandonment', in *Childhood, Class, and Kin in the Roman World*, London and New York 2001, 52–73.

⁴⁷ Boswell, *Kindness*, 58; Corbier, 'Child Exposure', 58. William V. Harris, 'The Roman Father's Power of Life and Death', in Roger S. Bagnall and William V. Harris (eds.), *Studies in Roman Law in Memory of A. Arthur Schiller*, Leiden 1986, 93–5, argues that the father's *vitaē necisque potestas* ('power of life and death'), which was part of the *patria potestas*, served as a cover for child exposure.

⁴⁸ See also Maria Bianchi Fossati Vanzetti, 'Vendita ed Esposizione degli Infanti da Costantino a Giustiniano', *Studia et Documenta Historiae et Iuris*, 49 (1993), 182–6.

⁴⁹ Corbiers, 'Child Exposure', 66–7; Harris, 'Child-Exposure', 2–4; Boswell, *Kindness*, 111–12.

⁵⁰ Boswell, *Kindness*, 105.

probably killed their offspring before or immediately after birth rather than practising child exposure, as Dio Chrysostom points out.⁵¹ This practice seems to be reflected in the Tosefta as well:

R. Yehudah says: A cistern into which they throw abortions is clean. R. Yehudah said: A story concerning the slave woman of a tax collector in Rimon, who threw an abortion into a cistern. And a priest came and looked to know what she threw in. And the matter came before sages and they declared him clean immediately, because the weasel and the hyena [or: leopard] drag it away at once (T. Ahil. 16: 13).

The story does not provide any background or reasons for the slave woman's action. That slave women would abort babies and throw them away was probably a common phenomenon with which rabbis were familiar.

The legal status of exposed children was ambiguous and depended on the rulings of the respective Roman emperors. At the beginning of the second century CE Pliny the Younger had contacted the emperor Trajan with regard to the handling of this issue in the province of Bithynia.⁵² In his response Trajan wrote that 'the problem of persons born free and abandoned, then picked up by someone and brought up in slavery has often been discussed, but nothing can be found in the rescripts of the rulers before me which applies to all provinces...'.⁵³ He rules that if such children wanted to regain their freedom, they should be allowed to do so, without having to repay their upkeep. In a ruling of Alexander Severus in 224 CE the abandoned child's right to regain his or her original freedom is maintained, but the reclaiming father has to repay the expenses incurred by the finder who brought up his child.⁵⁴ According to classical Roman law, then, a child's natal status was irrevocable, an exposed child maintained the status he or she had at birth. A freeborn infant's exposure and subsequent upbringing as a slave would not make any difference in this regard.⁵⁵ Vice versa, an abandoned slave child reared as a free person would nevertheless remain a slave, if the slave mother could later be identified.

⁵¹ Dio Chrysostom, *Discourses* 15. 8.

⁵² Cf. Pliny, *Ep.* 10. 65: 'Magna, domine, et ad totam provinciam pertinens quaestio est de conditione et alimentis eorum, quos vocant *θρεπτρούς*'. On this text see also Vanzetti, 'Vendita', 185–6.

⁵³ Translation from Boswell, *Kindness*, 63.

⁵⁴ Ibid. 65.

⁵⁵ See also Alan Watson, *Roman Slave Law*, Baltimore and London, 1987, 16–17.

One can imagine, however, that it would have been difficult if not impossible to determine a child's original freeborn or slave status if the mother was unknown and/or tokens of identification were absent.⁵⁶ A solution to this problem was provided by Constantine who, in 331 CE, enacted a decree according to which the one who sheltered and reared the exposed child would determine its status, that is, decide whether he wanted to bring him/her up as his son/daughter or slave. A later recovery of an abandoned child by its native father was legally prohibited in the decree as well.⁵⁷ This enactment constituted a radical change, since it abrogated the irrevocability of natal status which had, for centuries, been a principle of Roman law. According to the new law of the first Christian emperor, once an abandoned child was raised as a slave, it would remain a slave throughout its life. Denying a father the right to reclaim his child once he had abandoned it must be regarded as a serious limitation of *patria potestas* but is unlikely to have actually decreased child exposure in the following period. Boswell suggests that both acknowledgement of actual circumstances and the wish to create legal stability and to maintain the status quo motivated Constantine to enact the new legislation.⁵⁸

According to Diodorus Siculus, Jews and Egyptians were exceptional in that they reared every infant born to them and thereby increased their populations.⁵⁹ Certain texts in Philo and Josephus' writings seem to provide evidence of the official Jewish condemnation of the practice.⁶⁰ On the other hand, one may assume that these writers' outspoken criticism of the practice would have been unnecessary, if Jews had actually refrained from child abandonment. Adele Reinhartz has suggested that 'Philo's discussions of this issue were not occasioned by what

⁵⁶ One may assume that even if such tokens had been attached to an exposed child, slave dealers would quickly get rid of them to avoid a later recovery of the child by the native father.

⁵⁷ See C.Th. 5. 9. 1 (331 CE), quoted in Watson, *Slave Law*, 17 and Boswell, *Kindness*, 71. Cf. C.Th. 5. 10. 1 (329 or 319) quoted in Thomas E. J. Wiedemann, *Greek and Roman Slavery*, London 1981, 119. On these texts see also Vanzetti, 'Vendita', 190 (C.Th. 5. 10. 1) and 199 (C.Th. 5. 9. 1).

⁵⁸ Boswell, *Kindness*, 72–3. Vanzetti, 'Vendita', 202, suggests that the Christian notion that everyone is equal before God, whether slave or free, and should therefore maintain his or her present status, may have influenced Constantine.

⁵⁹ Diod. Sic. 40. 3. 8 (Jews), 1. 80. 3 (Egyptians). See also Tacitus, *Hist.* 5. 5. 3.

⁶⁰ See e.g. Philo, *De spec. leg.* 3. 110, 115–16; Josephus, *Ag. Apion* 2. 202. On Philo see Adele Reinhartz, 'Philo On Infanticide', *The Studia Philonica Annual*, 4 (1992), 45.

he perceived to be the theoretical implications of particular biblical legal texts, but were rather his response to the actual practice of infanticide and exposure of infants in Alexandria.⁶¹

No obligation to maintain all of one's children is ever mentioned in the Bible. The Mishnah is ambiguous on this question, and M. Ket. 4: 6 expressly states that 'the father is not liable for the maintenance of his daughters'.⁶² The discussion of the issue in y. Ket. 4: 8, 29a suggests that fathers were not legally required to support their children, whether male or female, but morally admonished by rabbis to do so.⁶³ Even if, for moral-religious reasons, most Jews refrained from exposing their children and brought them up in their families whenever they could, Cooper believes that 'there was nonetheless a problem of abandoned infants in Palestinian cities and other places where Jews lived'.⁶⁴

The existence of foundlings (אֲטוּפִים) is already taken for granted in the Mishnah. In M. Qid. 4: 1, foundlings (identified *ibid.* 4: 2 as children found in the market whose parents are unknown) are listed amongst the castes which returned to Judah after the Babylonian Exile. They are not considered total outsiders, such as gentiles or slaves, but part of Jewish society, despite their position at its very end, below *mamzerim* and *netinim*. They are neither proper Israelites nor gentiles but have a doubtful status. Therefore they are allowed to marry members of other lower status categories only, such as converts, freed slaves, and *mamzerim*, but not priests, Levites, and Israelites (see *ibid.* 4: 3).

Another Mishnah text dealing with abandoned children suggests a different approach to the problem of the found child's unknown genealogical origin. In addition, the term תֵּינוּךְ מוֹשֵׁלֵךְ ('abandoned child') is used instead of אֲטוּפִי ('foundling'). M. Makh. 2: 7 transmits the following ruling:

⁶¹ Reinhartz, 'Philo', 53.

⁶² See Catherine Hezser, 'The Exposure and Sale of Infants in Rabbinic and Roman Law', in Klaus Herrmann *et al.* (eds.), *Jewish Studies between the Disciplines. Judaistik zwischen den Disziplinen*, Papers in Honor of Peter Schäfer on the Occasion of his Sixtieth Birthday, Leiden 2003, 10.

⁶³ See also Hayim Lapin, 'Maintenance of Wives and Children in Early Rabbinic and Documentary Texts from Roman Palestine', in Catherine Hezser (ed.), *Rabbinic Law in its Roman and Near Eastern Context*, Texts and Studies in Ancient Judaism 97, Tübingen 2003, 178–84, on this issue.

⁶⁴ J. Cooper, *The Child in Jewish History*, Northvale and London 1996, 40.

If one found in it [in a town with a mixed Jewish and gentile population] an abandoned child [תִּינוּק מִשְׁלֵךְ], if the majority [of the inhabitants] are gentiles, it [the child] is [considered] gentile; and if the majority [of its inhabitants] are Israelites, it [the child] is [considered] Israelite. Half and half, it is [considered] Israelite. R. Yehudah says: They go according to the majority of those who expose [children].

Here only the two categories Israelite and gentile seem to exist. The intermediate category of the אֲסוּפִים ('foundlings'), mentioned in M. Qid. 4: 1, is absent here. The division into Jews and non-Jews is reminiscent of the Roman division into Roman citizens and outsiders, free people and slaves, a division which is maintained in Palestinian rabbinic discussions of abandoned children. The anonymous ruling to consider children found in predominantly gentile areas gentile and those in mostly Jewish areas Jewish can be seen as a pragmatic way of dealing with the issues involved. It is more reminiscent of Constantine's decision to let the finder determine the child's status than of earlier Roman attempts to maintain the freeborn Roman citizen's free status. As a consequence of this ruling, abandoned children found in cities such as Tiberias would be considered Jewish (and raised as 'adopted' sons and daughters?), whereas infants found in Caesarea would be considered gentiles (and used as slaves?). According to R. Yehudah, all exposed children would be viewed as gentiles, irrespective of the location. This ruling would legitimize their employment as slaves.

No formal ceremony of child adoption is known from Jewish sources but the phenomenon of raising children who were not one's own seems to have been practised nevertheless by Jews in antiquity. In a papyrus contract from Elephantine, dated to 416 BCE, a certain Uriah states that Jedaniah, whom he had received (as a gift?) from someone else, shall be considered his son rather than be treated as a slave:

Jedaniah by name son of Tahwa, [you]r la[d] whom you gave me and about whom you wrote a document for me—I shall not be able, I, Uriah, or son or daughter of mine, brother and sister of mine, or man of mine to press him (into) slave(ry). He shall be my son. I, or son or daughter of mine, or man of mine, or another individual do not have the right to brand him. I shall not be able—I, or son or daughter of mine, brother or sister of mine, or man of mine—we (shall not be able) to stand up to make him a s[lave] or brand him.⁶⁵

⁶⁵ Translation from Bezalel Porton and Ada Yardeni, *Textbook of Aramaic Documents from Ancient Egypt*, vol. 2: *Contracts*, Jerusalem 1989, 84–5.

The text may be seen as a document of manumission, on whose basis Jedaniah is to be treated as a free person and son of Uriah rather than a slave. The fact that such a document was considered necessary is interesting. It was not the adoption which required the document, but the slave status of Jedaniah which interfered with raising him as a child. Without the document other related or unrelated people seem to have been able to uncover Jedaniah's slave status and to treat him accordingly.

An 'adopted' son also appears in an inscription on a funerary stele found near Leontopolis.⁶⁶ This inscription is formulated in the first person of a certain Jesus, who had died at the age of 60. It maintains that Dositheus, whom the deceased had raised as a son because he had no children of his own, should lament his death and weep bitter tears for him. Not having children of their own may have been ancient Jewish couples' main incentive to raise other people's children, whether these 'adopted' children were of Jewish or non-Jewish origin. Another possible reason was the ideal of having a large family.

Despite evidence for the phenomenon of 'adopted' children in ancient Jewish society, we may assume that in Jewish as in Graeco-Roman society abandoned children were usually raised as slaves. The practice of bringing up *threptoi* as sons and daughters in the household of the finder must be considered exceptional.

FUNCTIONS OF SLAVES WITHIN THE HOUSEHOLD

One may assume that the functions of slaves within the household depended on the wealth and social status of the owner and the number of slaves he employed.⁶⁷ For those who had one or a few slaves only, each individual slave will have fulfilled a variety of functions, both in the house and outside, whereas in large households with dozens or even hundreds of slaves the individual slave's task will have been much more

⁶⁶ C. P. Jean-Baptiste Frey, *Corpus Inscriptionum Iudaicarum*, vol. 2, Rome 1952, no. 1511.

⁶⁷ Keith Bradley, *Slaves and Masters in the Roman Empire: A Study in Social Control*, Brussels 1984, 16.

specialized. One may assume that specially trained slaves such as cooks or secretaries would prefer to work for large households, since they could work in their specialized area then.

In general, slaves' domestic tasks seem to have been very varied: as doorkeepers they would stand at the entrance doors of Roman villas and decide who could enter the house;⁶⁸ they would attend to the guests at banquets, serving the meals and providing after-dinner entertainment;⁶⁹ they would wet-nurse and supervise the children;⁷⁰ they would fulfil all kinds of ordinary household tasks such as cleaning, baking, cooking, shopping, making their masters' beds; they would spin and weave to produce textiles; they would wash their master's feet, fill his cup with water and wine, and use fans to cool him; they would accompany him to the bathhouse, carry his utensils, and hand him a towel after the bath; they would always provide him company, write his letters, administer his household, and advise him in business matters.⁷¹

Due to the variety of different functions, which required different levels of expertise, slaves within one and the same household did not all share the same status. Those who were employed for menial tasks could easily be substituted by others, if their work performance was poor. Those who had acquired a specialized training and evinced a high level of performance, whether in cooking or writing or dancing, will have been rare commodities purchased and sold at a high prize. Their owners will have been more eager to keep them in good spirits than others who were easily replaceable if they escaped. Therefore it is unlikely that much solidarity developed even amongst slaves of the same household.

In Josephus' writings, free people are occasionally threatened with having to perform slaves' tasks. In *Bellum* Salome's daughter tells her mother that Alexander and Aristobulus, Herod's sons, had predicted that when they became rulers they would 'set the mothers of their other brothers to work at the loom alongside the slave girls' (*Bell.* 1. 479).

⁶⁸ Fitzgerald, *Slavery*, 58: 'the slave represented the master, which led to the awkward consequence that some slaves had to be treated with the respect appropriate to a superior'.

⁶⁹ On slaves' service at banquets see John H. D'Arms, 'Slaves at Roman Convivia', in William J. Slater (ed.), *Dining in a Classical Context*, Ann Arbor 1991, 171–83.

⁷⁰ On slave nurses and pedagogues see Sandra R. Joshel, 'Nurturing the Master's Child: Slavery and the Roman Child-Nurse', *Journal of Women in Culture and Society*, 12 (1986), 3–22; Bradley, *Discovering*, 13–36 and 37–75.

⁷¹ On domestic slaves' functions see also Moses I. Finley, *The Ancient Economy*, 2nd edn., London 1985, 73.

In *Antiquities* Samuel is said to have warned the Israelites of the evils of the monarchy by telling them what kings might require them to do: 'there is nothing which your sons will not do at their behest, after the manner of slaves bought at a price. Of your daughters also they will make perfumers, cooks and bakers, and subject them to every menial task which handmaids must perforce perform from fear of stripes and tortures . . . In a word, you with all of yours will be slaves to the king along with your own domestics' (*Ant.* 5. 41). These repeated equations between slaves and free people indicate that being reduced to the role and tasks of slaves was one of the greatest fears of the freeborn in ancient times.

Josephus indicates that some slave owners employed slaves as their personal attendants and developed intimate relationships toward them. The personal slaves of Herod, described by Josephus, were assigned specialized tasks in the service of their master. They are presented as tools facilitating a life in utter luxury: 'The king [Herod] had some eunuchs of whom he was immoderately fond because of their beauty. One of them was entrusted with the pouring of his wine, the second with serving his dinner, and the third with putting the king to bed and taking care of the most important matters of the state' (*Ant.* 16. 230–3). The combination of the tasks with which the third slave is entrusted—putting the king to bed and functioning as an administrator in political matters—seems somewhat strange but may not have been unusual for slave owners' most intimate slave-companions. Fitzgerald writes: 'A delicate, and always revocable, suspension of master–slave relations was required for some roles that the slave might be called upon to play, most obviously the role of the beloved, where the master might want to imagine a degree of reciprocity between him and the *delicatus*.'⁷² Herod eventually learns that his beloved slaves were involved in a plot initiated by his son Alexander: 'When Herod asked whether they had had intimate relations with Alexander, they confessed to this, but said that they were not aware of any other offence on his part against his father' (*ibid.*).⁷³ Under torture they eventually confessed that Alexander hated his father and had plotted against him (*ibid.*).⁷⁴

⁷² Fitzgerald, *Slavery*, 47.

⁷³ On homosexual relationships between masters and their slaves see Beert C. Verstraete, 'Slavery and the Social Dynamics of Male Homosexual Relations in Ancient Rome', *Journal of Homosexuality*, 5 (1980), 227–36.

⁷⁴ The narrative has a parallel in *Bell.* 1. 488.

In rabbinic sources, domestic slaves' tasks are as varied as in Graeco-Roman literature and Greek Jewish writings. According to M. B. 10: 7, slaves may be bought to clean a bathhouse which brothers inherited from their father. Slaves may also be sent to redeem produce in the status of second tithe (M. M. Shen. 4: 4, T. M. Shen. 4: 3). Slaves are presented as carrying baskets with fruits for their masters to the Temple in Jerusalem (T. Bik. 2: 10), holding the *lulav* for them during the Sukkot festival, and carrying their sandals for them on the Sabbath (T. M.Q. 2: 16). In all of these latter cases, slaves help their masters fulfil certain religious observances. By taking over functions which their masters may not be able or allowed to do, they help them observe halakhic rulings and perform rituals associated with holidays.

A text in Sifra suggests that masters should permit their slaves to work in their area of expertise.⁷⁵ A slave shall not be forced to teach his craft to others and shall also not have to learn it anew, but shall rather be allowed to practise the craft he had been trained in before. Similarly the Mekhilta rules that a Hebrew slave should not be asked to do other work than his particular craft.⁷⁶ He should not be employed for the menial tasks which slaves were customarily asked to perform for their masters, such as washing their master's feet, carrying his garments to the bathhouse, supporting him when he went upstairs, and carrying him in a chair.⁷⁷ Other common tasks are mentioned for slaves in the Yerushalmi and in amoraic midrashim: slaves are presented as sitting on the window sill with a fan to cool their masters and as door guards deciding who should enter the house.⁷⁸ They were supposed to saddle their masters' asses and were used as messengers by the householders' wives.⁷⁹

WOMEN'S SLAVES

Already in the Bible women are said to have had their own slaves whom they may have brought into the marriage. For example, Sarai,

⁷⁵ See Sifra Behar perez 7: 2, 80a.

⁷⁶ Mekhilta Neziqin/Mishpatim 1.

⁷⁷ See *ibid.*

⁷⁸ See y. Yoma 1: 1, 38c (slaves fanning their master); y. Ber. 9: 1, 13a (slave as doorkeeper).

⁷⁹ Cf. Gen. R. 55: 8 (saddling asses); PRK 22: 2 (messenger).

Abraham's wife, 'had an Egyptian slave whose name was Hagar' (Gen. 16: 1). In the case of Laban, it is expressly stated that he provided his daughters with slave women: 'Laban had given his slave Zilpah to his daughter Leah as her maid' (Gen. 29: 24); 'Laban had given his slave Bilhah to his daughter Rachel as her maid' (v. 29). These slave women are later said to have functioned as their mistresses' substitutes in producing offspring with their husbands (see below). That they had other special functions in the household may be assumed but is never specified.

The custom of fathers providing their daughters with slaves as part of their dowry seems to have continued in later times. The book of Tobit states that when Raguel betrothed his daughter Sarah to Tobiah he 'promptly handed over to Tobiah his bride Sarah, along with half of all he owned: male and female slaves, oxen and sheep, asses and camels, clothing, money, and household goods' (Tobit 10: 10). The slaves will not have worked for the wife only, but become (part of) the new family's slave staff. Nevertheless some of them will have been specially assigned to the wife and become her assistants and confidants.

During the husband's lifetime, the slaves brought into the marriage by his wife will have been part of the husband's property. After his death, the ownership rights could be transmitted to his widow. The book of Judith relates, for example, that when Judith's husband Manasses had died, he 'had left her gold and silver, male and female slaves, livestock and land', so that she could continue to live on their estate (Judith 8: 7). One of her slave women seems to have been particularly close to Judith, serving as her personal assistant and helping her in bringing about the death of Holophernes.

Slaves as part of a woman's dowry are also mentioned in the Mishnah and Tosefta. The issue is discussed in connection with slaves brought into the marriage by the daughter of an Israelite married to a priest, since in that case the question arose whether the slaves are allowed to eat from the heave offering designated to the priest (cf. M. Yeb. 7: 2, T. Yeb. 9: 1). The Mishnah and Tosefta distinguish between two categories of slaves, *melog* slaves and *son barzel* slaves. In the Tosefta an explanation is provided: 'What are *melog* slaves? [If] they diminish or increase [in value], behold, [the loss or increase] is hers. And what are *son barzel* slaves? If they diminish or increase [in value], behold, [the loss or

increase] is his' (T. Yeb. 9:1). It seems, then, that the *melog* slaves were more closely associated with the wife, whereas the *son barzel* slaves were associated with the husband. On the other hand, neither husband nor wife seems to have owned them exclusively: 'The man cannot sell, because they are mortgaged to the wife. The woman cannot sell, because the fruits [of their labour] belong to the husband' (ibid.). Nevertheless, the distinction between the two categories is maintained even after the husband's death: 'If he died and left her as she was [that is, childless], the *melog* slaves do not eat [heave offering], just as she does not eat, the *son barzel* slaves eat, because they are in the possession of the heirs until the time when they are given to her' (ibid.). Further complex stipulations follow whose reasons remain elusive (cf. the continuation in T. Yeb. 9: 2).⁸⁰

Another way in which women could acquire slaves was by inheriting them from their father. M. Ket. 8: 5 suggests: '[If] she inherited [from her father] old male and female slaves, they shall be sold and land shall be purchased from [the proceeds], and he [the husband] has the usufruct. R. Shimon b. Gamliel says: She should not sell [them], since they are the pride of her father's house.' In Jewish marriage the wife's property would automatically become the property of her husband.⁸¹ The suggestion to sell the old slaves seems to be based on pragmatic reasons: the slaves would be weak and of little practical use to the daughter and her family. Slave owners would usually try to get rid of their old slaves who were unable to work and expensive to maintain.⁸² R. Gamliel's opposition to their sale reflects the importance of preserving the status and honour of the slave holder rather than concern for the slaves' fate.

As in the case of Judith, mentioned above, rabbis also ruled that wives could inherit or at least continue to use the slaves of their husbands' household after the latter's death: 'The woman whose husband dies . . . makes use of the male and female slaves, the silver vessels and the golden vessels in the way in which she used them during her husband's lifetime'

⁸⁰ See also the discussion in y. Yeb. 7: 1, 8a.

⁸¹ See Michael Satlow, *Jewish Marriage in Antiquity*, Princeton and Oxford 2001, 204–5.

⁸² Keith Hopkins, *Conquerors and Slaves: Sociological Studies in Roman History*, Cambridge 1978, 120: old, weak, and sick slaves might simply be thrown out of the household when sale and manumission through self-purchase were impossible.

(T. Ket. 11: 5). She probably had to share the ownership of the slaves with her male children, if they were adults at the time of their father's death.

M. Ket. 5: 5 discusses tasks which slaves would customarily perform for a wife. The household tasks of grinding flour, baking bread, washing clothes, cooking, suckling a child, making the householder's bed, and working in wool are obligations which, in the first place, apply to wives. Depending on how many slaves wives bring into the marriage, some of these tasks may be delegated to slaves, but rabbis are eager to note that wives should not be left idle at the end: 'R. Eliezer says: Even if she brought in for him a hundred slave girls, one forces her to work in wool, since leisure leads her to unchastity. R. Shimon b. Gamliel says: Furthermore, [if] he puts his wife under a vow not to do [any] work, he should [rather] dismiss her and give [her] *ketubbah*, since leisure leads her to boredom.' In the Yerushalmi's discussion of this passage the type of work which may be taken over by slave girls and those for which the wife remains responsible are differentiated: 'R. Bun said: It is because these sorts of work [grinding, baking, washing] are menial that they assigned them to the slave girl . . . R. Huna said: Even if she brought into the marriage a hundred slave girls, he may force her to perform for him certain tasks best done in private. What are these tasks done in private? She anoints his body with oil, washes his feet, and mixes his cup' (y. Ket. 5: 5(6), 30a). In the further discussion it is argued that even if slave boys were available to carry out these tasks, the wife is nevertheless obliged to perform them herself for her husband. Besides rabbis' concern about married women's leisure time, issues of sexual propriety and the maintenance of a private sphere, even if limited to the care of one's body, become evident here.

Would mistresses feel greater solidarity with their slaves, especially the female slaves of their household, than masters? Or would they see them as competitors for their husband's sexual and emotional favours? Unfortunately, we do not possess information on mistresses' perception of their slave subordinates. Since both women and slaves were subjected to the householder's authority, they may have bonded against him. On the other hand, the freeborn women of the household may have felt the need to distinguish themselves from their slaves, and for that purpose exercised an even stricter rule than the masters themselves. If their husbands kept slaves as their concubines, they may have become jealous

of them and treated them badly. Saller may be right in his suggestion that slavery 'served to enhance the distance between husband and wife' in the ancient family.⁸³ Slaves' sexual availability 'increased the strain in family relationships by presenting an external source of competition for affection and sexual attention within the household'.⁸⁴ That slaves were able to cause such frictions also points back to their basic humanity, however, and the family members' necessity to view them as fellow human beings.

SLAVE NURSES AND PEDAGOGUES

Tasks which are repeatedly associated with slaves in Graeco-Roman literature are those of the nurse and the pedagogue. The nurse was a wet-nurse entrusted with the care of babies and young children.⁸⁵ Nurses stood in intimate contact with their nurslings and would often remain their confidantes and servants once they had grown up. In literary sources women's employment of nurses to wean their children is often depicted with disdain.⁸⁶ It was feared that a 'bad' nurse of servile origin might cause harm to the child and have a bad influence on him.⁸⁷ The counter-image of the bad nurse was the 'good' nurse who functioned as a substitute for the 'bad' mother, who did not fulfil her motherly role and was concerned with her own pleasures only.⁸⁸ In any case, 'nursing implied a general disruption of contact between parent and child, and it seems plausible that physical distancing was matched by emotional distancing'.⁸⁹ The usage of slave nurses 'created contradictions in master-slave and patron-freedmen relations':⁹⁰ the child (and later master) would be dependent on the nurse with regard to basic requirements, but

⁸³ Saller, 'Slavery', 77. See also *ibid.* 79 where he refers to 'jealousy and anger injected into marriages by the easy sexual access to slaves, male and female'.

⁸⁴ *Ibid.* 82.

⁸⁵ Joshel, 'Nurturing', 5; Bradley, *Discovering*, 13.

⁸⁶ Bradley, *Discovering*, 18, stresses that 'the use of *nutrices* in Italian towns was not confined to any single social stratum but covered a range of familial situations... families of lesser estate also found it possible to gain access to nurses when they were needed...'.
⁸⁷ Joshel, 'Nurturing', 6.

⁸⁸ *Ibid.* 9.

⁸⁹ Bradley, *Discovering*, 29.

⁹⁰ Joshel, 'Nurturing', 10.

the nurse would be dependent on her master (the child's father) for her maintenance.

The pedagogue would care for the older child who did not need the nurse any more. Like the nurse, the pedagogue was usually a slave within the household of the child's father.⁹¹ He would supervise the daily routine of both boys and girls, such as accompanying them to school and helping them with their homework.⁹² Some of the pedagogue's responsibilities are listed in a parable transmitted in Lev. R. 2: 5:

R. Shimon b. Yochai said: [This may be compared] to a king who had an only son. Every day he would instruct his domestic⁹³ and say to him: Has my son eaten? Has my son drunk? Did he go to school? Did he come back from school?

The pedagogue functions as an intermediary between father and son here. He is held responsible for the child's proper nourishment and education, but was probably not assumed to cook the food or teach the son himself.

One may assume that the pedagogue had a great influence on the child, since he was supposed to instil in him or her a sense of morality and virtue.⁹⁴ Like nurses, pedagogues would often form very close relationships with the children in their custody and thereby subvert the common power structures between slaves and free people. The use of slave pedagogues 'produced a relationship in which emotional factors offset the disparities of power and status between slave owner and slave and led to a dependence of the former on the latter that went far beyond the level of the material and the physical'.⁹⁵ This phenomenon would cause fear amongst fathers that pedagogues could use their 'power' to harm rather than educate and nurture the child. This fear is expressed in some rabbinic king parables transmitted in amoraic Midrashim, which will be discussed below.⁹⁶ In these parables it is usually children's nurses and pedagogues who pose a threat to the life of either the child in their custody or the father and master.

⁹¹ According to Bradley, *Discovering*, 46–7, not only upper-class parents but also those belonging to the middle strata of society would sometimes employ pedagogues for their children.

⁹² See *ibid.* 51–2.

⁹³ The parallel in PRK 2: 7 has 'pedagogue'.

⁹⁴ Bradley, *Discovering*, 53.

⁹⁵ *Ibid.* 61.

⁹⁶ See Ch. 16 below.

Not all of these parables present the nurse and pedagogue as a threat to the child's well-being, however. A parable in Gen. R. 2: 2 expresses the paradoxical relationship between nursling and nurse:

R. Tanhuma said: [The matter may be compared] to the son of kings who was sleeping in his cradle and his nurse was confused. Why? Because she knew that in the future she would receive hers [that is, her fate, such as, for example, lashes] under his hand.

The innocent and powerless baby which is totally dependent on the nurse's care is, at the same time, the nurse's master who may eventually use his power to cause her harm.

7

Master–Slave Relationships

THE relationship between slaves and their masters could, at one and the same time, be governed by exploitation and affiliation, submission under the master's authority and intimacy. It was characterized by what may be called a mutual dependency: the master was dependent on the slave's loyalty and the slave dependent on the master's maintenance and humane treatment of him. Fitzgerald speaks of a 'paradoxical symbiosis between the master and his "separate part" that expresses itself in complementarities, reversals, and appropriations'.¹ While slaves had to bow to their master's wishes under the constant threat of punishment, they could also become indispensable to them, function as their confidants, and be party to their secrets. One may assume that masters who had one or a few slaves only stood in a closer relationship to them than those who owned many. But even in large households some slaves will have been closer to their master than others, depending on their respective functions.² Furthermore, the householder, his wife, and his children may have had their own slave confidants: the householder's personal secretary, the slave girls the wife brought with her into the marriage, and the children's nurse and pedagogue. The nuclear family's relationship towards these personal slaves will have differed significantly from their relationship towards other slaves who performed routine household tasks such as cleaning, baking bread, or shopping for food.

COMMON PREJUDICES AGAINST SLAVES

In both Graeco-Roman and ancient Jewish society certain prejudices against slaves and 'wise' sayings concerning their proper treatment

¹ William Fitzgerald, *Slavery and the Roman Literary Imagination*. Cambridge, 2000, 13

² See the discussion in the previous chapter.

circulated. Slaves are presented as dangerous, greedy, dishonest, lazy, that is, as negatively disposed toward their masters. This negative depiction seems to have been very widespread amongst Romans, since it appears in the works of agricultural writers such as Cato and Columella as well as in the works of Plautus and Horace.³ It reflects slave owners' fears of being cheated, robbed, or even killed by their slaves. According to a common Roman proverb, one had as many enemies as one had slaves.⁴

Biblical proverbs concerning slaves may suggest that certain preconceptions about slaves and their treatment were commonplace in the ancient world. According to Prov. 17: 2, for example, 'a capable slave will dominate an incompetent son and share the inheritance with the brothers'. Masters' fear of too clever, intelligent, and educated slaves and their possible overturning of power relationships within the family shines through here. Another proverb expresses similar concerns: 'Luxury is not fitting for a dullard, much less that a slave rules over princes' (Prov. 19: 10). This saying serves as a warning against a too friendly and intimate relationship with one's slaves. The fact that many different versions of these sayings circulated (see also Prov. 30: 21–3: 'The earth shudders at three things . . . a male slave who becomes king . . . a female slave who supplants her mistress') indicates that masters were governed by a deep-set fear of not being able to maintain their authority. Such fears continued in Hellenistic times and are also found in Greek Jewish writings, for example in the Testament of Gad: 'If the hater is a slave, he conspires against his master, and whenever difficulty arises, he plots how he might be killed' (4: 4). Proper status distinctions between masters and slaves could be maintained only through harsh treatment: 'A slave cannot be disciplined by words. Though he may comprehend, he does not respond' (Prov. 29: 19); 'Do not be ashamed of . . . drawing blood from the back of a worthless slave' (Sir. 42: 5); 'A blow for a male slave, a rebuke for a female slave, and for all your slaves discipline!' (Ahiqar 83).

³ Keith Bradley, *Slaves and Masters in the Roman Empire. A Study in Social Control*. Brussels 1984, 28 n. 26 and 30–3, with references. See also Richard Klein, 'Zum Verhältnis von Herren und Sklaven in der Spätantike', in *Roma versa per aevum. Ausgewählte Schriften zur heidnischen und christlichen Spätantike*, Hildesheim 1999, 360–1.

⁴ See Festus 314L; Seneca, *Ep.* 47. 5; Macrobius, *Saturnalia* 1. 11. 13.

Similar notions about the evil nature and proper discipline of slaves are also reflected in rabbinic sources. Theft and unchastity in particular are repeatedly associated with slaves. According to a proverb ascribed to Hillel in M. Abot 2: 7, ‘the more female slaves the more unchastity, the more male slaves the more theft [מרבֿה שפחות מרבֿה זמה]’. Theft is also associated with slaves in T. B.Q. 11: 4: Slaves are suspected of taking from their master’s food and giving it to their friends and family; a slave ‘does not scruple on account of stealing from the householder, for that was his custom גזילו של בעל הבית שכך נהגו’. Theft and unchastity reappear together in Gen. R. 86: 3: ‘All slaves deprive the house of their master [כל העבדים מחסרין את בית רבן] . . . ; all slaves are suspected of theft [כל העבדים חשודין על הגזול] . . . ; all slaves are suspected of unchastity [כל העבדים חשודין על הערוה]’. That slave owners’ sexual exploitation of slaves was the primary cause for slaves’ unchastity is not taken into account in these accusations. Slaves could simply not avoid unchastity, since they did not have control over their bodies. Their (forced) sexual promiscuity was seen as a moral problem by ancient Christian writers as well.⁵

Other common prejudices against slaves, such as their association with deceit and arrogance, are also transmitted in amoraic sources. According to y. Hor. 3: 5, 48b, R. Yochanan said: ‘Do not believe a slave until sixteen generations’. Y. Qid. 4: 14, 66b attributes to Abba Gurion of Sidon in the name of Abba Shaul the saying: ‘most slaves are arrogant’. That slaves were seen as possessing a bad character and engaging in evil machinations is evident from a parable transmitted in Sifra: ‘A parable was told. To what may the matter be compared? To a king who said to his slaves: I shall turn away from all of my occupations and occupy myself with you in evil things [ועוסק עמכם ברעה]’.⁶ All of these opinions are clearly formulated from the perspective of the free-born, slave-owning strata of society and will have served to justify masters’ harsh treatment of slaves.

MILD TREATMENT OF SLAVES

At the same time, Roman and Jewish literary sources instruct masters to act mildly toward their slaves, since mild treatment would lead to slaves’

⁵ See Jennifer A. Glancy, *Slavery in Early Christianity*, Oxford and New York 2002, 50–3.

⁶ Sifra Behuqqotai pereg 4: 4, 84b.

obedience and better service. The seemingly humanitarian treatment of slaves recommended by Columella and other writers was governed by masters' self-interest. Columella himself writes: 'Such justice and consideration on the part of the owner contributes greatly to the increase of his estate' (*De re rustica* 1. 8. 19).⁷ Varro also suggests rewarding slaves with additional food and clothing to maintain their goodwill: 'It was thus a long-time understanding of farmowners that gentle treatment of their slaves worked to their advantage in a very direct way.'⁸ Although there is no evidence of specific handbooks for the management of domestic slaves, various Roman writers allude to this issue: 'Slaves could not simply be forced to work by virtue of their subject status, but instead their social contentment had to be secured as a prelude to work efficiency and general loyalty.'⁹ In order to make their slaves work more efficiently, masters were advised to provide decent living conditions and sufficient time for rest, to allow the creation of slave families, and to uphold the prospect of emancipation.¹⁰ Whether and to what extent such admonitions actually benefited slaves remains uncertain, though.¹¹

Already in some Greek Jewish writings slave owners are urged to treat their slaves leniently. Thus Ps.-Phocylides writes: 'Provide your slave with the tribute he owes his stomach. Apportion to a slave what is appointed so that he will be as you wish. Do not brand [your] slave, thus insulting him. Do not hurt a slave by slandering [him] to [his] master. Accept advice also from a judicious slave' (223–7). Similar considerations are expressed in the book of Sirach: 'Do not ill-treat a slave who works honestly, or a hired servant whose heart is in his work. Love a good slave from the bottom of your heart and do not grudge him his freedom' (7: 20–1). Philo shares these notions when suggesting that slaves should be treated mildly: if they are provided with clothes, food, care, and time for relaxation they will render their services much better than when overburdened and neglected (*De spec. leg.* 2. 83). In the latter case slaves would age quickly and soon be unable to fulfil their tasks (cf. *ibid.* 90–1). All of these suggestions fit very well into the general

⁷ See also Bradley, *Slaves*, 22.

⁸ *Ibid.* 23.

⁹ *Ibid.* 25.

¹⁰ See *ibid.*

¹¹ See also Richard Klein, 'Zum Verhältnis von Herren und Sklaven in der Spätantike', in *Roma versa per aevum. Ausgewählte Schriften zur heidnischen und christlichen Spätantike*. Hildesheim 1999, 362 with regard to Ambrose's and Augustine's admonitions to Christian slave owners.

Graeco-Roman context of advice from slave owners to their peers mentioned above.

Whereas the Mishnah and Tosefta do not contain any general admonitions concerning the proper treatment of slaves, such ideas are to be found in Midrashim. They are partly based on the biblical rule not to treat (Hebrew debt) slaves harshly (cf. Lev. 25: 43), while the specifications of the proper treatment of slaves reflect the rabbinic authors' contemporary cultural environment.

According to a passage in Sifra, someone who had to sell himself into slavery because of poverty should not be treated like a servant: 'He is not to go behind you carrying you in a sedan chair; and he is not to go before you in the bathhouse carrying your utensils', he should rather 'be with you in food, with you in drink, and with you in clean clothes, so that you are not to eat a fine piece of bread and he eats bread of coarse grain, you drink old wine and he drinks new wine, you sleep on down and he sleeps on straw'.¹² It is also recommended to let slaves live in the city with their masters rather than delegating them to the countryside.¹³ In criticizing the usage of (Jewish) slaves for work ordinarily done by slaves¹⁴ and advocating a basic equality in the treatment of slaves and free people this text seems overtly idealistic.

The recommendation that masters should provide their slaves with food, although they are not obliged to do so (cf. M. Git. 1: 6), is also stressed in y. Ket. 5: 5, 30a. According to R. Acha, free people are more likely to receive support from communal charity than slaves are, that is, slaves are more in need of sustenance from other sources. R. Yochanan, who did not only provide food to his slave but share his own meals with him, is presented as an example of good moral behaviour here:

¹² Sifra Behar pereg 7: 2, 80a. This is very reminiscent of a passage in Artemidorus, who viewed mice in dreams as images for domestic slaves, who live with their masters, share the same food etc. (3. 28). Similarly, Seneca called slaves 'housemates', 'sharers of a tent' (*contubernales*), see idem, *Ep.* 47. He praises Lucilius who lives *familiariter* with his slaves. See Fitzgerald, *Slavery*, 4.

¹³ Fitzgerald, *Slavery*, 3: 'One of the most dreaded punishments for the domestic slave in literature was banishment to the country estate or, worse, to the mill.'

¹⁴ See also Mekhilta Neziqin/Mishpatim 1 (p. 248), where household slaves' ordinary tasks are listed.

Now did not R. Yochanan, from whatever he would eat, give to his slave and recite the following verse in this connection: 'Did not he who made me in the womb make him?' [Job 31: 15] (y. Ket. 5: 5, 30a).¹⁵

The shared human nature of the master and his slave is emphasized here. Obviously such treatment was granted to individual slaves only, those who stood in a particularly close relationship to their owners. A story in Lev. R. 10: 3 indicates that otherwise even leftovers were considered a special favour: as a reward the slave pedagogue is allowed to eat the food that is left from his master's table. Like rabbis, Stoic writers sometimes emphasized the need for humane treatment of slaves. According to Plutarch, Cato the Elder sometimes dined with his slaves (cf. Cato Major 3). In more general terms Seneca writes: 'Associate with your slave on kindly, even on affable terms; let him talk with you, plan with you, live with you' (*Ep.* 47: 13).

When commenting on the biblical narrative about Sarai's harsh treatment of her slave Hagar, whom she had given to Abraham as a replacement for herself, to bear him a son, and of whom she had subsequently become jealous (Gen. 16: 1–6), rabbis recommend a middle ground between an ill-minded and an overtly friendly treatment of slaves:

'And Abram said to Sarai: Behold, your slave girl is in your hand' [Gen. 16: 6]. He said: It is of concern to me [to treat her] neither with goodness nor with wickedness [לא בטובה לא ברעה]. It is written: 'You shall not make use of her as a servant [לא התעמר בה] because you have humbled her' [Deut. 21: 14]. And this one, after we have inflicted pain on her, shall we treat her as a slave [again]? It is of concern to me [to treat her] neither with goodness nor with wickedness. It is written: 'And Sarai dealt harshly with her and she fled from her' [Gen. 16: 6]. And it is written: 'To sell her to a foreign people he shall have no power, since he has dealt deceitfully with her' [Exod. 21: 8]. And this one, after we have made her a mistress [גבירה], shall we make her a slave girl [again]? It is of concern to me [to treat her] neither with goodness nor with wickedness. It is written: 'And Sarai dealt harshly with her and she fled from her' [Gen. 16: 6]. R. Abba said: She deprived her of marital connection [or: sexual relations; lit.: use of the bed]. R. Berekhiah said: She slapped a shoe [סקורדיסין] into her face.

¹⁵ The text has a parallel in y. B.Q. 8: 5, 6c. On this text see also Elias J. Bickerman, 'The Maxim of Antigonus of Socho', *Harvard Theological Review*, 44 (1951), 155–6: 'It was an exceptional case, remembered by the disciples of a rabbi, if he gave part of his own meal to his house-slaves.'

R. Berekhiah in the name of R. Abba: Buckets and bathing apparel [בנריית, diff. MS versions] she gave her [to carry] to the bathhouse (Gen. R. 45: 6).

Here Abraham is presented as a model slave owner who prevents his wife from acting against the slave woman out of animosity against her. Once the slave woman has been exploited sexually, for the benefit of her owners' family, the humiliation and pain she has already suffered should not be increased by harsh treatment. The text's acknowledgement of a slave's feelings of pain and degradation upon the exploitation of her body is striking. For the additional mistreatment inflicted upon the slave woman by her mistress various interpretations are offered, all of which probably exemplify common behaviour toward slaves. Abraham's recommendation to treat the slave 'neither with goodness nor with wickedness' is reminiscent of Stoic preferences for the middle way between compulsion and anarchy in the treatment of slaves.¹⁶ A wise master is able to control his temper and at the same time maintain his authority.¹⁷

IDEAL MASTER–SLAVE STORIES

An attempt to present the often harsh reality of master–slave relationships in a favourable light are stories about the ideal master and his ideal slave. In these stories the slave is presented as loyal and obedient to his master, as a model of *fides* and *obsequium*.¹⁸ Valerius Maximus' chapter 'De fide servorum' (6. 8) is a collection of stories which exemplify slaves' loyalty to their masters to the extent that in order to save their masters' lives they risk losing their own.¹⁹ One of the greatest proofs of slaves' loyalty was when they refrained from betraying their masters and thereby lost the huge rewards for disloyalty promised by their masters' enemies.²⁰ Vogt has shown that this new literary genre portraying

¹⁶ See, for example, Stobaeus, *Eclogai* 2. 99, quoted in Peter Garnsey, *Ideas of Slavery from Aristotle to Augustine*, Cambridge 1996, 133: 'The good man is neither compelled by anyone nor does he compel anyone, he is neither obstructed nor does he obstruct, he is neither forced by anyone nor does he force anyone, he neither masters nor is he mastered. . . . The opposite is true of the bad man.'

¹⁷ See Seneca, *De ira* 3. 12, 5; 3. 32, 1.

¹⁸ Bradley, *Slaves*, 33.

¹⁹ On this collection see Joseph Vogt, *Ancient Slavery and the Ideal of Man*, Cambridge 1975, 129–34.

²⁰ *Ibid.* 133.

exemplary slaves began when the histories of the Civil Wars were being written, at the time of the Gracchi. Valerius Maximus emphasized the loyalty of the political leaders' slaves who let themselves be tortured and even killed on behalf of their masters.²¹

Bradley assumes that 'a repository of such anecdotes about slaves must have been generally available to writers'.²² They also appear in Seneca's and Macrobius' writings.²³ Seneca presents examples of slaves who showed bravery and virtue by acting as substitutes for, and letting themselves be killed instead of, their masters in times of war, for example:

During the Civil War, there was a slave who hid his master, and put on his ring and clothes, and went to meet the police and told them that he had no wish to impede them from carrying out their commands, and then offered them his neck. What a man he proved himself to be—ready to die for his owner at a time when it was a sign of unusual loyalty not to want one's master's death: to be seen to be forgiving when everything in the political world was heartless, and to be trustworthy when the political world was utterly without faith. Or to desire death as the prize for being loyal, at a time when enormous rewards were being offered for treachery (*Ben.* 3. 25. 1).

The story tradition is followed by Seneca's commentary ('What a man he proved himself to be...'), emphasizing the lessons in loyalty, forgiveness, and trustworthiness to be learned from the slave's example.

In Macrobius' stories the *servi philosophi* are even presented as philosophical themselves.²⁴ In his *Attic Nights* Aulus Gellius points out that some philosophers had been slaves, to underline his argument that the enslaved can be truly noble if they strive for philosophical wisdom:

There were quite a few other slaves who later became famous philosophers. One of them was Menippus... And there was also Pompylus, the slave of Theophrastus the Peripatetic, and a slave of Zeno the Stoic who was called Persaeus, and of Epicurus, whose name was Myys; they were all considerable philosophers... The memory of the noble philosopher Epictetus, since he was also a slave, is so fresh in our minds that I do not have to write about it as though it were something which has been forgotten (2. 18).

²¹ See Vogt, *Ancient Slavery*, 136–7.

²² Bradley, *Slaves*, 36.

²³ See Seneca, *Ben.* 3. 18–27; Macrobius, *Sat.* 1. 11. 16–46. On these see Vogt, *Ancient Slavery*, 138–41.

²⁴ See Macrobius, *Sat.* 1. 11. 41–5, referred to by Vogt, *Ancient Slavery*, 141.

The philosophical slaves are usually presented as slaves in the service of philosophers. By serving their masters and living in their immediate vicinity, they were believed to have been able to obtain some philosophical learning themselves.

In all of these stories and traditions slaves are used to represent the values and norms of the Roman slave-owning class: philosophers present their slaves as philosophical, whereas political leaders stress their loyalty, courage, and bravery on their behalf. 'What is striking . . . is the consistent attitude over time and among diverse authors towards what was thought to be desirable and commendable behaviour in slaves because that attitude stood for the maintenance of the established social order and against any resistance to it from the servile element.'²⁵ The stories serve as 'palliatives' for masters' anxieties and also provide models of correct behaviour to slaves. 'Since *exempla* are repositories for normative cultural values, they tend to be deployed in times of crisis when those fundamental values are most in danger.'²⁶

As one would expect, rabbinic master–slave stories propagate particular rabbinic norms and values. This is especially evident in the stories about R. Gamliel and his slave Tabi, which are of tannaitic origin and may have been part of a story collection before their integration into the respective rabbinic documents. While ancient philosophers pointed to the phenomenon of philosophical slaves, the rabbinic stories present Tabi as a 'disciple of sages', eager to study Torah and to observe rabbinic teachings. At the same time R. Gamliel is portrayed as the ideal master who acts leniently and respectfully toward his slave and even tries to find ways to set him free.

An anonymously transmitted tannaitic story which deals with the seemingly trivial topic of how R. Gamliel addressed his slaves actually addresses the more fundamental questions of humiliation and approbation, honour and shame:

It has been taught: The male and female slaves, one does not call them 'Abba So-and-So' and 'Imma So-and-So'. Those of the house of R. Gamliel did

²⁵ Bradley, *Slaves*, 37. See also Holt Parker, 'Loyal Slaves and Loyal Wives. The Crisis of the Outsider-Within and Roman Exemplum Literature', in Sandra R. Joshel and Sheila Murnaghan (eds.), *Women and Slaves in Greco-Roman Culture: Differential Equations*, London and New York 1998, 152: '*Exempla* serve as guides to the cognitive map of Rome, to the shared norms, values, and symbols that make up Roman culture.'

²⁶ Parker, 'Loyal Slaves', 153.

call their male and female slaves 'Abba Tabi' and 'Imma Tabita' (y. Nid. 1: 5, 49b).

In Roman society male slaves were commonly called *puer*, 'boy', an address which indicated their inferior status. Finley writes: 'Yet another dehumanizing device was the habit of addressing, or referring to, male slaves of any age as 'boy', *pais* in Greek, *puer* in Latin, a practice familiar from other societies as well . . .'.²⁷ In maintaining that the household of R. Gamliel called their slaves 'Abba' and 'Imma', 'father' and 'mother', the tradition questions that common practice, but at the same time presents R. Gamliel's behaviour as exceptional amongst rabbis.

Whereas the just quoted tradition suggests that all of R. Gamliel's slaves bore the same name, elsewhere Tabi appears as one individual slave to whom R. Gamliel was particularly close:

And when Tabi, his slave, died, he accepted consolations on his account. His students said to him: Have you not taught us, our master, that one does not accept consolations on account of slaves? He said to them: Tabi, my slave, is not like the rest of slaves. He was worthy (M. Ber. 2: 7).

In the Yerushalmi the story is followed by a second, contrasting one about R. Eliezer and his maidservant:

It has been taught: A story according to which the female slave of R. Eliezer died. And his students entered to console him, but he did not accept [their condolences]. He entered the courtyard before them, and they entered behind him; the house, and they entered behind him [that is, he tried to evade them]. He said to them: It seemed to me that you did not understand the tepid [mild hint] and you did not understand the hot [strong hint]. And have they not said: One does not accept condolences on behalf of slaves because slaves are like cattle? If one does not accept condolences on behalf of other freedmen, all the more so [does one not accept condolences] on behalf of slaves. To one whose slave or animal had died one says: May God restore your loss (y. Ber. 2: 8, 5b).

In this story R. Eliezer represents the common practice: one does not accept condolences on behalf of one's slaves, because these slaves, although members of one's household, do not count as human beings; they are to be treated like animals. Their death is seen as a material loss rather than as an occasion for personal grief. R. Gamliel, on the other

²⁷ Moses I. Finley, *Ancient Slavery and Modern Ideology*, London 1980, 96.

hand, is said to have diverged from this common attitude. Similarly, Pliny had dismissed the common Stoic emphasis on equanimity (*apatheia*) and immunity to grief and the equation of the death of a slave with the loss of any other piece of property.²⁸ However, since R. Gamliel's behaviour is presented as exceptional here and as motivated by Tabi's preciousness, it does not upset traditional social norms.

In some of the R. Gamliel–Tabi stories Tabi is presented as a religious practitioner and disciple of sages. According to M. Ber. 3: 3, 'women, slaves, and minors are exempt from ... [wearing] *tefillin*'. A *baraita* transmitted in y. Er. 10: 1, 26a maintains, however, that 'Tabi, the slave of R. Gamliel, put on *tefillin* and sages did not protest against him'. The tradition is recited in a discussion in y. Suk. 2: 1, 52d:

[A] The opinions of R. Gamliel are contradictory. For it has been taught: Tabi, the slave of R. Gamliel, would put on *tefillin* and sages did not protest against him. But here [in M. Suk. 2: 1] they protested against him.

According to M. Suk. 2: 1, 'Tabi, the slave of R. Gamliel, slept under the bed' in the *sukkah* in which sages were staying. R. Gamliel explained this practice as follows: 'And R. Gamliel said to the elders: Do you see Tabi, my slave, he is a disciple of a sage, so he knows that slaves are exempt from [keeping the commandment of dwelling in] the *sukkah*. That is why he is sleeping under the bed', a practice with which free adult Israelites would not fulfil their obligation. The Yerushalmi continues:

[B] [He did so] in order not to press the sages [together in the *sukkah*].

[C] If [it was] in order not to press the sages [together in the *sukkah*], he should have sat outside of the *sukkah*!

[D] Tabi, the slave of R. Gamliel, wanted to hear the words of the sages [and therefore stayed in the *sukkah*, under the bed].

Tabi is presented as knowledgeable of halakhic rules concerning slaves here. He allegedly knew that slaves were not obliged to dwell in the *sukkah* during the seven days of the Sukkot festival. That he stayed there nevertheless is explained with reference to his eagerness to learn rabbinic teachings and be close to his master and his rabbinic friends. Like some slaves of philosophers who are said to have become philosophers

²⁸ Pliny, *Ep.* 8. 16. 3.

themselves, here the slave of a prominent rabbi is portrayed as a rabbinic scholar.

The discussion in the Yerushalmi implies, though, that Torah study and the observance of biblical and rabbinic rules were not expected of slaves and that Tabi's behaviour and R. Gamliel's reaction were exceptional. That rabbis differed over the question whether slaves should be allowed to study Torah is evident from the following discussion:

[A] R. Zeira in the name of R. Yirmeyah: The slave is counted into the *minyān* of seven . . .

[B] Did not R. Chama b. Uqba in the name of R. Yose b. Chaninah say: It is prohibited to teach one's slave Torah?

[C] Explain it [to mean] that he learned by himself or that his master taught him, as in the case of Tabi (y. Meg. 4: 3, 75a par. y. Ket. 2: 10, 26d).²⁹

The very emphasis on and discussion of Tabi's behaviour shows that rabbis considered it extraordinary for slaves to act the way he did. In a way, then, the presentation of Tabi as an exceptional slave serves to reveal the more general social attitudes concerning slaves amongst ancient Jews.

In these stories R. Gamliel is presented as exceptional as well. He is said to have tried to set Tabi free but was not successful in this regard:

A story concerning R. Gamliel who knocked out the tooth of his slave Tabi. He came before R. Yehoshua. He said to him: Tabi, my slave, I have found an opportunity to set him free. He said: It is not in your power [to set him free], and there are no fines except [in cases involving] witnesses and a court (y. Shebu. 5: 7, 36c par. y. Ket. 3: 10, 28a).

According to the story, R. Gamliel believed that he could use a minor physical injury as a pretext to manumit his slave informally. This rather naive assumption, which is meant to reveal R. Gamliel's humane treatment of his slave, is subsequently proved to be wrong. A master's physical violence against his slave would not lead to automatic manumission. If there was evidence of a criminal case of maltreatment,

²⁹ For rabbinic attitudes towards slaves' Torah study see also Gen. R. 92: 1: 'Rabbi saw a blind man who laboured in the Torah. He said to him: Peace to you, free man. He said to him: Have you [not] heard that I am a slave? He said to him: No, but that you will be a free man in the world to come.' Here the slave, who is assumed to have studied Torah on his own, is promised freedom in the world-to-come. His Torah study was obviously appreciated by Rabbi.

observed by witnesses and subject to a fine, it would have to be presented before a court. Nevertheless the story serves its purpose of depicting R. Gamliel as the ideal slave owner. He sees his slave as a human being and treats him accordingly. That such behaviour was not customary for masters is clear from the objections raised against it within the story itself and in the Yerushalmi's further discussion of the topic.

A story which is very similar to the R. Gamliel–Tabi stories and may have been part of the same collection is transmitted in Lev. R. 19: 4. This story relates that Tabita, the female slave of R. Gamliel, was particularly meticulous about ritual purity. She was very concerned about not touching food and wine during her menstruation period and therefore examined herself at short intervals to determine the commencement of menstruation. She is eventually praised by R. Gamliel: 'May your life be given to you just as you have given me my life.'³⁰ The parallel of the story in PRK 12: 15 has a slightly different ending: 'R. Gamliel said: If this one [Tabita] had been lazy, all clean [objects] would have become unclean'. A common prejudice against slaves is refuted by reference to Tabita's moral example here.

Besides the tannaitic stories about R. Gamliel and his slaves Tabi and Tabita amoraic ideal-master–slave stories were told about R. Yudah or Yudan Nasia and his slave Germana. In these stories more secular virtues are stressed:

Germana, the slave of R. Yudah/Yudan Nasia, went out [and] wanted to lend [money] to R. Hila. A mad dog came and wanted to snap at R. [H]ila. Germana shouted at the dog, and it left off R. [H]ila and ran after him. And he [the rabbi] recited in his own regard: 'I give men in return for you' [Isa. 43: 4] (y. Shab. 6: 9, 8c).

In contrast to the stories about R. Gamliel and Tabi, which emphasize the typically rabbinic values of Torah scholarship and religious observance, this story resembles the Roman master–slave stories which provide examples of the slave's courage and depict him as a 'saving sacrifice'.³¹ In this story Germana does not save the life of his master but that of his master's colleague and fellow-rabbi. As in the Roman stories, the slave pays for his courage with his own life or at least injury. The rabbi's reaction and quotation of Isa. 43: 4 shows that the storyteller considered

³⁰ This phrase may indicate manumission as a reward.

³¹ See Vogt, *Ancient Slavery*, 136 f., and the example from Seneca above.

the slave an agent of God: God uses slaves as tools to save rabbis. The great superiority of rabbis over slaves is implied here and considered self-evident.

Another version of the story, which seems like a continuation of the one just quoted, appears in *y. Yoma* 8: 5, 45b: 'Germani, the slave of R. Yudan Nasia, a mad dog bit him. He [R. Yudan Nasia?] fed him a piece of his liver, but he was never healed.' The story seems to suggest that R. Yudan Nasia tried to heal his slave by feeding him with the dog's liver, perhaps a popular remedy with magical connotations, albeit without success. That a master, especially a master as prominent as the patriarch, would be so concerned about his slave's health, must be considered unusual. If this story is seen in connection with the previously quoted one—they may have originally been part of a collection of stories about R. Yudan Nasia and his slave Germana—the unusual behaviour of the master parallels the unusual behaviour of the slave: the ideal slave is the alter ego of the ideal master.

These ideal master–slave stories are associated with the most prominent rabbis and patriarchs only. The imagined relationship between these masters and their slaves resembles the Stoic emphasis on *humanitas* and *clementia* in the treatment of slaves. Like the rabbinic authors of these stories, Cicero and Pliny 'express their affection, admiration, and friendship for individual slaves . . . whose personal services involved intimacy'.³²

FUNERAL INSCRIPTIONS

Although we must assume that all of these stories are ideological constructs which serve to transmit rabbinic slave owners' values and ideals, they may also be indicative of the phenomenon that some slaves actually stood in a close and intimate relationship to their masters. This is indicated, for example, by Roman funeral dedications set up by slave owners for their deceased slaves and by (freed) slaves for their masters.³³

³² Miriam T. Griffin, *Seneca: A Philosopher in Politics*, Oxford 1992, 261.

³³ See Keith Bradley, *Slaves and Masters in the Roman Empire. A Study in Social Control*. Brussels 1984, 38; idem, *Discovering the Roman Family: Studies in Roman Social History*. New York and Oxford 1991, 13–36 (examination of Latin inscriptions referring to child nurses); G. H. R. Horsley, *New Documents Illustrating Early Christianity*, vol. 2, North Ryde 1982, 52–3.

An example is provided by the following Latin inscription from Rome:

To the spirits of the dead. To Sabinianus, a manager and a good and most faithful person. His mistress Memmia Juliana (*ILS* 7370).

Sabinianus is not explicitly called slave, but it is clear that he was a high-ranking slave in Memmia Juliana's household.

Such inscriptions are also to be found amongst Diaspora Jews, who were probably influenced by the Roman practice. Some epitaphs were set up for *threptoi*, who could be either slaves or adopted children or both, as discussed above. Amongst the other examples, probably the most well-known is the Greek inscription which a certain Rufina, who is called Jewess and archisynagogue, set up for the freedmen and particularly valued slaves of her household. The inscription comes from Smyrna and is dated by Frey to not earlier than the third century CE³⁴ It ends with a warning and the threat of a very high fine to be imposed on those who might dare to reuse the tomb for their own burials. A copy of the inscription is said to have been deposited in the public archives, so that it would be legally enforceable. Rufina probably was a wealthy woman and prominent member of the local Jewish community. In setting up a tomb and memorial inscription for the freedmen and highest ranking slaves of her household she seems to have followed the model of some Roman slave owners of her time.

Another example from the Diaspora is provided by a Latin inscription from Ostia, tentatively dated to the second century CE by Noy.³⁵ The inscription states that the Jewish community of Ostia acquired a burial place and gave it to the gerusiarch Gaius Julius Justus to build a monument. It further states that 'Gaius Julius Justus the gerusiarch made [the monument] for himself and his wife, and his freedmen and freedwomen and their descendants'.³⁶ Not only are the freedmen commemorated and buried together with their master, they are also buried on a communally owned burial site. As dependants of their Jewish

³⁴ C.P. Jean-Baptiste Frey, *Corpus Inscriptionum Iudaicarum*, vol. 2, Rome 1952, no. 741.

³⁵ David Noy, *Jewish Inscriptions of Western Europe*, vol. 1: *Italy, Spain, Gaul*, Cambridge 1993, no. 18. The inscription was found outside of Ostia but is believed to have belonged to the Jewish community of Ostia, which is mentioned in the inscription, see *ibid.*, p. 33.

³⁶ In accordance with Noy's translation.

master they were obviously integrated into the Jewish community, at least at the time of their death.

A number of epitaphs from ancient Cyrenaica, which can be dated to Roman imperial times before 115 CE, commemorate slaves.³⁷ The slave's name is usually followed by his or her owner's name in the genitive clause: 'X of Y', without further specification. Jewish names are the only indication of the Jewishness of slaves or owners. Whether the person mentioned in the inscription was the slave, freed(wo)man, or child of the commemorator is often difficult to determine.³⁸ For example, one inscription was set up for 'Sara of Cartilius'.³⁹ That Sara was a slave becomes evident when one compares this inscription with two others which seem to have been set up for Cartilius' daughters, 'Cartilia Myrto' and 'Cartilia Petronia'. The possessive clause is absent here.⁴⁰ The name Sara probably indicates the Jewish origin of the slave. She is said to have died when she was 10 years old and was obviously buried in the family grave of the Cartilii. Cartilius himself is mentioned with the *tria nomina* of the Roman citizen in one of the inscriptions.⁴¹ A slave woman by the name of Sara also appears in another inscription: 'Sara of Scaeva'.⁴² She is said to have died at the age of 17 and was buried together with other non-Jewish members of Scaeva's household.

If one compares the slave epitaphs from Cyrenaica with other slave epitaphs from the Diaspora mentioned above, it becomes clear that slaves were buried in the tombs which their masters chose for them, irrespective of the slaves' own Jewish or non-Jewish origin: if the master was Jewish, he would bury his slaves in a Jewish cemetery; if he was non-Jewish, the Jewish slaves would be buried together with pagans.

A few examples of epitaphs which commemorate the relationship between masters, on the one hand, and slaves, freed(wo)men, or *threptoi*, on the other, can be found amongst the Jewish inscriptions of Roman Palestine. Like the so-called epigraphic habit in general, the practice of setting up inscriptions for one's freedmen and personal slaves

³⁷ Gerd Lüderitz, *Corpus jüdischer Zeugnisse aus der Cyrenaika*, with an appendix by Joyce M. Reynolds, Beihefte zum Tübinger Atlas des Vorderen Orients 53, Wiesbaden 1983, xiv–xv.

³⁸ Ibid.

³⁹ Ibid. no. 31.d.

⁴⁰ Ibid. nos. 31.b. and c.

⁴¹ Ibid. 31.a.

⁴² Ibid. 43.c.

and of being commemorated by them seems to have been due to Graeco-Roman influence.⁴³

An inscription found at Beth She'arim was set up by a certain Procopius for Calliope, his freedwoman, who is called *μιζοτέρα* and seems to have had a high-standing position within Procopius' household.⁴⁴ A possibly Jewish inscription of unknown provenance from Syria-Palestine, dated to the late Antonine period, was set up for a *threptos* raised in the house of a certain Theodora.⁴⁵ The fact that owners set up such epitaphs for their slaves already implies that the commemorated slaves stood in a close personal relationship to them and occupied an important position within their households.

Other inscriptions were set up by the slaves and freedmen themselves for their deceased masters. An inscription from third-century CE Tiberias mentions the *threptoi* of a certain Sirikios: 'For the honour of our deceased lord Sirikios we, your *threptoi*, set up [this monument].'⁴⁶ The inscription may have been part of a larger monument or mausoleum set up for Sirikios by his *threptoi*.⁴⁷ The *threptoi* who set up the inscription were probably not just ordinary slaves who, one may assume, would have lacked both the money and intention to do so, but a special set amongst them, who were particularly close to their master and owned some property on their own. As *threptoi* they may have originally been abandoned children brought up in Sirikios' household.⁴⁸ They may have become as close to Sirikios as his own children, a phenomenon which did not exclude the possibility that they fulfilled servile functions as well. Whether they were manumitted at the time the inscription was

⁴³ On the Roman epigraphic habit and its influence on ancient Jewish epigraphy see Catherine Hezser, *Jewish Literacy in Roman Palestine*, Texts and Studies in Ancient Judaism 81, Tübingen 2001, 357–64.

⁴⁴ Moshe Schwabe and Baruch Lifshitz, *Beth She'arim*, vol. 2: *The Greek Inscriptions*, Jerusalem 1974, 185–6, no. 200: 'The tomb of Calliope the elder and freedwoman [*μιζοτέρας καὶ ἀπελευθέρας*] of Procopius, of blessed memory'. Ibid. 186 the authors point out that *μιζοτέρα* can also mean steward or 'majordomo' that is, superintendent or manager of a household, a position which Calliope may have held.

⁴⁵ H. W. Pleket and R. S. Strout (eds.), *Supplementum Epigraphicum Graecum (SEG)*, vol. 32, Amsterdam, 1985, 411, no. 1487.

⁴⁶ Leah Di Segni, 'The Inscriptions of Tiberias' (Heb.), *Idan*, 11 (1988), no. 8. The inscription was found on a stone which was reused for the floor of a Jewish house. It was first published at the end of the 19th cent. and does not survive today.

⁴⁷ Ibid. 77.

⁴⁸ On the meaning of this term see the discussion above.

set up remains unclear. A similar inscription set up by slaves for their mistress comes from Beth She'arim: 'Here lies Semnous, also called Sirikis, our mistress'.⁴⁹

GIFTS AND INHERITANCES

Some slaves seem to have been so close to their masters that the latter would grant them generous gifts during their lifetime or establish them as heirs after their death. Both Roman and rabbinic law allowed slaves to accept and make use of gifts they received from their masters or third parties. In Roman law, all such gifts would go into the slave's *peculium*, as Ulpian stipulates: 'But also what is due to a slave under an action for theft or other action is counted in the *peculium*; likewise an inheritance and legacy [from a third party], as Labeo says' (*Dig.* 15. 1. 7. 5, Ulpian, book 29 on the Edict). The slave was allowed to make deliberate use of this *peculium*, but not to make gifts from it to someone else.

According to Watson, a slave who was designated his master's heir constituted a special case: 'The institution of one's slave as heir . . . had to be accompanied by freedom.'⁵⁰ That slaves could become their masters' heirs is stated in the following text by Gaius: 'We can institute as heirs slaves no less than free men, provided of course they are the slaves of persons whom we could institute heirs, since the relationship of testamentary capacity with slaves was introduced from the person of the masters' (*Dig.* 28. 5. 31 pr., Gaius, book 17 on the Provincial Edict). Slaves who were thus designated heirs could not refuse the legacy and would become freedmen: 'A slave instituted heir by his own master, if he remains in that condition becomes free and a necessary heir' (Justinian's *Institutes* 2. 14. 1). Only if he was manumitted during his master's lifetime could he choose whether or not to accept the inheritance.⁵¹

The Mishnah similarly rules that slaves could become free if they were designated heirs to their master's property:

He who writes over his property to his slave, he becomes a free person. [If] he maintains any amount of landed property, he [the slave] does not become free.

⁴⁹ Schwabe and Lifshitz, *Beth She'arim*, vol. 2, p. 191.

⁵⁰ Alan Watson, *Roman Slave Law*. Baltimore and London, 1987, 107.

⁵¹ See the continuation of the text quoted *ibid.* 110.

R. Shimon says: In any case he becomes a free person, unless [his master] says: 'Behold, all of my property shall be given to So-and-So, my slave, except for one ten-thousandth of it (M. Peah 3: 8).

According to the first sentence, the slave gains his freedom only if his master designated him as heir to his entire property, including himself. For R. Shimon, on the other hand, this explicit attestation is not necessary. Only if the will contains a stipulation which excludes some of the master's property from the slave's ownership, without specifying which part, does the slave remain unfree. For he might be included in that part of the property not granted to him. According to this rule, then, becoming an heir to his master's property does not automatically liberate the slave. Only if his master grants him possession over himself does he become free.

The Tosefta parallel to this *mishnah* (cf. T. Peah 1: 3) restricts the applicability of R. Shimon's ruling: the unspecified exclusion of part of the master's property from the slave's inheritance has no binding legal force. The type and location of the excluded part must rather be specified, so that it is clear that the slave himself is not excluded. In this way 'the slave acquires [his part of] the property and acquires his freedom' (ibid.). That this reformulation of R. Shimon's ruling was not accepted by all rabbis is indicated by the final sentence: 'And when they said these words before R. Yose, he said: 'He who gives a right answer smacks his lips' [Prov. 24: 26].'⁵²

Roman jurists had similar problems with ambiguously formulated wills. Watson quotes the following text from the time of Justinian in this regard:

There was a matter of doubt where a testator appointed his slave his heir but without mentioning freedom; and this raised such contention among the old jurists that it is scarce possible to see that it was decided. But this altercation is to be left to antiquity. We have found another method of reaching a decision, since we always follow the traces of the intention of testators. When we therefore find introduced by our law that if anyone appoints his own slave as tutor to his sons and does not mention liberty, liberty is also presumed to have been granted by the very appointment as tutor so as to favour the pupils; then if anyone appoints

⁵² See also T. B.B. 9: 10–11. On R. Yose's statement see Saul Lieberman, *Tosefta Ki-fshutah*, vol. 1, 2nd edn., New York 1992, 145.

his own slave as heir without mentioning freedom, surely he always becomes a Roman citizen? (C.J. 6. 27. 5. 1).

Since slaves could not be tutors, a master may have granted liberty to a slave whom he intended to appoint to that position. The situation of a slave designated as heir to his master's property is presented as an analogous case here. Watson explains: 'The Roman rule was that no one could die partly testate. Hence, if the slave was heir and took the inheritance by will, he himself could not be the slave of the person who would be heir on intestacy. Unless he were free, he would be a slave, but the slave of no one. Hence, his situation as heir also implied a gift of liberty.'⁵³

The rabbinic discussion of legacies to slaves seems to resemble Roman legal customs but may also to some extent be based on biblical prototypes. As already pointed out above, the sons which the biblical patriarchs are said to have had with their slave women could be accepted as proper children and heirs to the householder's property. Similarly, in the Elephantine papyri, an Egyptian slave woman married to a Jew could receive property as a gift from her husband.⁵⁴ On the other hand, Ezek. 46: 16–17 rules: 'Thus said the Lord God: If the *nasi* makes a gift to any of his sons, it shall become the latter's inheritance. But if he makes a gift from his inheritance to one of his slaves, it shall only belong to the latter until the year of release. Then it shall revert to the *nasi*; his inheritance must by all means pass on to his sons.' Whether this regulation applied to the *nasi* only or to any slave owner at Ezekiel's time remains unclear. In any case, the slave is not able to become his master's proper heir here: he remains enslaved and can make use of the inheritance during the time of his enslavement only. As the last sentence emphasizes, the regulation was meant to keep the inheritance within the *nasi*'s family. It seems, then, that rabbis' willingness to allow slaves to become proper heirs of their masters and to gain freedom together with their legacy can be fully understood only against the background of Roman law.

⁵³ Watson, *Slave Law*, 27. See also William W. Buckland, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge 1970 (repr. of 1908 edn.), 144: 'A legacy *sine libertate* to the testator's own slave is invalid.'

⁵⁴ Emil G. Kraeling (ed.), *The Brooklyn Museum Aramaic Papyri: New Documents of the Fifth Century B.C. from the Jewish Colony at Elephantine*, New Haven 1953, no. 4.

INTRUDERS INTO THE PRIVATE SPHERE

Despite the great hierarchical distinctions between slaves and slave owners, slaves were basically the ‘sharers of the life’ (κοινωνὸς ζωῆς) of their masters, as Fitzgerald has pointed out.⁵⁵ Like shadows, they were always present and remained unnoticed unless one decided to pay particular attention to them. They would intrude into the most private realms of the house and sometimes ‘slept in the same rooms as their masters or mistresses, or just outside the door’.⁵⁶ Through their unobtrusive presence slaves would be able to overhear their masters’ most intimate conversations, and they could function as intermediaries in amorous and political enterprises.⁵⁷ Some slaves would advise their masters in their private and public affairs and accompany them wherever they went and whenever they needed them.⁵⁸ At the same time masters would be afraid of slaves’ possible disrespect and insolence which could cause them great harm.

This ambiguity of the slave’s role within the household is also expressed in ancient Jewish writings. The book of Tobit provides various examples of the beneficial but sometimes also annoying facets of slaves’ constant presence and overhearing of conversations. Before we are told that Tobit’s son Tobiah married Sarah, the daughter of Raguel, from Ecbatana in Media, Sarah ‘had to listen to insults from one of her father’s servant girls’, who knew that Sarah had been given in marriage to seven bridegrooms before, each of whom had died before the proper consummation of the marriage:

The slave woman said to her: ‘You are the one who is killing off your bridegrooms! Look at you! You have already been given in marriage to seven bridegrooms, yet you have not taken the name of any of them! Why do you beat us? Because your husbands are dead? Go and join them! May we never have to look at a son or daughter of yours!’ (Tobit 3: 7–10).

Sarah is said to have been so distressed about these accusations that she broke down in tears, went to her room, and wanted to kill herself (see

⁵⁵ Fitzgerald, *Slavery*, 7, with reference to Aristotle’s *Politics*, 1260^a.

⁵⁶ Ibid. 4. ⁵⁷ See ibid. 51–68 on slaves’ function as intermediaries.

⁵⁸ Cf. Fitzgerald, *Slavery*, 23: ‘the attendant slave protects the master from ever being alone’.

ibid.). The quoted text suggests that her mistress's mistreatment of her slaves ('Why do you beat us?') caused her to verbally insult her, that the insult should be seen as a revenge. In the final curse the slave woman not only wishes her mistress's death but extends the curse to further generations from whom she expects the same treatment. In the preceding text the author of the book of Tobit makes clear, however, that the claim that Sarah killed her bridegrooms is false: it was 'the evil demon Asmodeus' who killed them. The slave woman's accusations are presented as the slanderous reaction to her mistress's legitimate disciplining of her slaves. The text is obviously written from the perspective of slave owners who were eager to preserve the unwritten but nevertheless always present limits of propriety which the slave woman transgressed.

Another episode in the book of Tobit relates to a slave woman's beneficial intrusion into her master's private space. After Tobiah and Sarah had entered the marriage chamber, Sarah's father Raguel anticipated that Tobiah had met the fate of the other bridegrooms before him. He went out to dig a grave for him:

When they had finished digging the grave, Raguel went into the house and called his wife, saying: 'Send one of the female slaves and have her go in[to the marriage chamber] and see if he is alive . . .'. So they sent the female slave, lit a lamp, and opened the bedroom door. She entered and found them sound asleep. Then the servant girl came out and informed them that he was alive and that nothing bad had happened (Tobit 8: 9–14).

The parents-in-law themselves would not have entered the marriage chamber. But the entering of the slave woman is seen as unobtrusive and inconspicuous. The slave serves as an intermediate and informant between family members here.

In the book of Judith a female slave appears in the role of Judith's confidante and assistant in the murder of Holophernes. The slave woman, 'who had charge of all of her [Judith's] property', is sent to ask the elders of the town to come and see Judith at the city gate (Judith 8: 9–10). Some time later Judith is said to have called her maid to help her get washed, anointed, and dressed (10: 1 ff.). She gives her food and wine to carry (10: 5) and they go out together to meet the elders at the agreed-upon location. When Judith joins Holophernes at a banquet, she eats the kosher food which her maid had prepared for her (12: 15 and 19). Afterwards she asks her maid to stand outside Holophernes' tent

and to wait for her to come out (13: 3). When she comes out with Holophernes' head, she gives it to her servant girl, 'who put it in her food bag'. Subsequently 'the two of them went out together, as they had usually done for prayer' (13: 9–10). The slave is presented as Judith's ever-present helper and companion.

Masters and mistresses would confide in their slaves and confess their fears, sorrows, and pains to them. For example, Josephus reports that his mother, when she was thinking that her son had been killed, lamented to her handmaids in private, saying: 'This, then, is the fruit that I reap of my blessed childbearing that I am to be denied the burial of the son by whom I hoped to have been buried' (*Bell.* 5. 545). In front of one's personal slaves one could say things one would be embarrassed about in front of equal-status friends or even other relatives. The basis of this liberty was their humble status as well as trust in their secretiveness. This secretiveness and devotion to fulfilling their master's and mistress's wish, whatever it may have been, made slaves such good conspirators in plots and intrigues (see below).

The fact that slaves were always present in the most private spheres of the household posed certain dangers to the maintenance of women's honour. Therefore rabbis felt the need to control and set certain boundaries to women's interaction with their slaves. T. Sot. 5: 9 lists as one of the characteristics of a man of evil character that he is too licentious with regard to his wife's behaviour in front of her slaves: he does not dismiss his wife when he sees her 'going out with her hair loose, going out with her shoulders uncovered, shameless in the presence of her male slaves, shameless in the presence of her female slaves, going out and spinning in the market, bathing, talking with anybody: it is a commandment to divorce her'. What the rabbinic authors of this tradition meant by the term shameless (*לבה גס*) remains unclear. It could be interpreted in various ways and would provide husbands with reasons to get rid of their wives. Since slaves lacked any honour and women were believed to be unable to control themselves, rabbis urged their fellow male Jews to take the initiative and preserve their wives' honour in the potentially unruly climate of the household.

Rabbis allowed women to remain alone in the presence of two male slaves but not in the presence of one only or one slave and a minor, since she could be suspected of unchastity then: 'A woman remains alone with two men [cf. M. Qid. 4: 12], even if both of them are Samaritans, even

if both of them are slaves, even if one is a Samaritan and one is a slave, except for the minor, for she has no shame to have sexual relations in his presence' (T. Qid. 5: 9). Sexual relations between women and their slaves are occasionally thematized in Graeco-Roman literature, and women who engaged in them were ostracized by Roman men as well.⁵⁹ Unlike men, for whom relationships with concubines were seen as self-evident, women were expected to preserve the honour of the family and the legitimacy of the householder's heirs. Therefore a different standard was applied to them.⁶⁰

Once a wife had been accused of adultery and the traditional bitter water ordeal was to be administered to her, her personal slaves, whether male or female, were not permitted to be present, because 'her heart relies on them [מפני שלבם סמוך עליהם]', that is, they might have supported her in unchastity (Sifre Num. 9). In the same context her shamelessness in front of her slaves, which is also mentioned in M. Sot. 1: 6 and T. Qid. 5: 9 (see above), is emphasized (cf. Sifre Num. 11: בהן מבוני שלבם גס בהן: 'because they are shameless'). The same Midrash transmits a story about a whore who employed a female slave as a doorkeeper, to let her lovers into the house (cf. Sifre Num. 115). All of these traditions express rabbis' fears concerning women's employment of slaves to satisfy their illicit urges, fears which were all too present amongst Graeco-Roman writers as well.⁶¹

THE DANGERS OF INTIMACY

The close association between masters and slaves could also be dangerous for the masters in other regards: slaves could reveal their master's secrets to their enemies and participate in plots against them. The image of the clever, scheming slave appears repeatedly in Graeco-Roman literature and had its origin in Greek New Comedy.⁶² It was an

⁵⁹ See especially Judith Evans-Grubbs, "'Marriage more Shameful than Adultery': Slave-Mistress Relationships, "Mixed Marriages" and Late Roman Law', *Phoenix*, 47 (1993), 125 ff., and Catharine Edwards, *The Politics of Immorality in Ancient Rome*, Cambridge 1993, 52, on such relationships and the double standards developed by men.

⁶⁰ See also Ch. 8 on this issue.

⁶¹ See Fitzgerald, *Slavery*, 59–62, with reference to Ovid, *Amores* 1. 11–12; Edwards, *Politics*, 52–3, with reference to Martial 6. 39, 8. 31, and Juvenal 6. 76–81.

⁶² Fitzgerald, *Slavery*, 25.

expression of slave owners' anxieties over and awareness of the negative side of their 'symbiotic' relationship with their slaves.⁶³

Greek Jewish writers and Josephus show that such fears were shared by Jewish slave owners as well. As already mentioned above, the Testament of Gad warns: 'If the hater is a slave, he conspires against his master, and whenever difficulty arises, he plots how he might be killed' (4: 4). Josephus provides various examples for such plots. In *Antiquities* he relates, for example, that Herod had a bodyguard named Corinthus, whom he fully trusted. He was offered a large sum of money by one of Herod's enemies, however, on condition that he would kill Herod, 'and this he undertook to do'. Herod eventually detected the plot against him. He immediately 'arrested Corinthus and put him to the torture, and thus the whole plot was disclosed to him' (*Ant.* 17: 55–6). That slaves were tortured in order to reveal information about plots is also reported in *Bellum*. When Pheroras was killed by poison, Herod allegedly 'put the female servants and some ladies above that rank to the torture' (*Bell.* 1. 584). He had 'each of the slave girls separately tortured' to gain information about Pheroras' killers.⁶⁴ In another instance a domestic of a certain Antiphilus is said to have arrived from Rome with letters from Acme, a female slave of Livia, the wife of Augustus. She had written to Herod to inform him that she had found amongst Livia's papers letters from Salome containing abusive remarks about the king (*Bell.* 1. 641). In the text's parallel in *Antiquities* Josephus writes: 'This Acme was a Jewess by birth but a slave of Caesar's wife Julia, and she did these things out of friendship for Antipater, for she had been bribed by him with a large sum of money to assist him in his evil designs against both his father and his aunt' (*Ant.* 17. 141).

That slaves could easily be bribed with money in order to assist in intrigues is a recurrent motif not only in Josephus' but also in other Graeco-Roman authors' writings. They would be very helpful in intrigues because they had access to the most intimate private spheres of the household and lived in close proximity to their masters. They would be able to obtain documents and information which even the

⁶³ For this term see *ibid.* 31.

⁶⁴ See also the parallel in *Ant.* 17. 63–4: 'Greatly angered by these statements, the king put to the torture the women's slaves and some of their freedwomen, and the matter remained obscure because no one would speak out.' Cf. *Ant.* 17: 93 (trial of Antipater): the slaves of Antipater's mother were put to torture to reveal information to the council.

closest friends would not know about. They were therefore potentially dangerous to their masters, who always had to fear that they would eventually be betrayed to their enemies.⁶⁵ Not only the actual betrayal, but even 'the fear of this possibility might provoke cruelty'.⁶⁶ Torture was the common means used by masters to interrogate slave witnesses.⁶⁷ It was an expression of the masters' ultimate power over slaves which would make all attempts at outwitting them useless.

Domestics were the first ones to be suspected of having revealed their masters' secrets or behaviour to others. This becomes evident from a parable transmitted in Pes. R. 8: 2:

The matter may be compared to one who was married to the king's daughter, and he would rise up and greet the king every day. And the king would say to him: 'This and that did you do in your house. [About] this and that have you been angry. [Because of] this and that did you strike your slaves', and so [with] every single matter. And he [the son-in-law] would go out and say to the domestics of the palace: 'Who told [the king] that I did so? From where does he know?' They said to him: 'Fool! You are married to his daughter and you say: From where does he know? His daughter tells him [everything].'

Here the clever slaves outwit the king's son-in-law by pointing to alternative possibilities of spreading gossip within the family.

The depiction of slaves as 'fall guys and alibis' was a common theme of Graeco-Roman literature.⁶⁸ It was the consequence of their position as intermediaries between the free: 'Slaves provided the free with a leeway in their relations with each other, and they also enabled a set of relations shadowing those with their peers, both a convenience and a source of friction.'⁶⁹

THE SERVICE OF SAGES

Slave ownership was also a matter of prestige in antiquity, and freeborn persons who lacked slaves were looked down upon. To move around the city accompanied by a group of slaves and to have slaves carry one's

⁶⁵ See also Fitzgerald, *Slavery*, 59.

⁶⁶ Ibid.

⁶⁷ Watson, *Slave Law*, 84: 'Evidence from slaves was generally not admissible in civil cases, but when it was, it had to be taken under torture', cf. *Dig.* 22. 5. 22. 1.

⁶⁸ Fitzgerald, *Slavery*, 57.

⁶⁹ Ibid. 51.

utensils to the bathhouse was part of the image of an honourable citizen. To have slaves standing at one's doorposts and serving food at one's banquets would immediately indicate one's social status to one's clients, visitors, and guests.⁷⁰ Since the lack and scarcity of slaves was considered shameful, Libanius asked the council of Antioch to increase the salary of his lecturers so that they could afford more than two or three slaves each.⁷¹ It is evident from Graeco-Roman literary sources that 'like shadows, slaves were a supplement necessary to the self-image and identity of their masters and mistresses'.⁷²

Rabbinic sources do not allow us to estimate how many rabbis owned slaves and how many slaves rabbinic slave owners possessed. Slaves are explicitly associated with a small number of rabbis only, but this does not necessarily imply that other rabbis, for whom they are not mentioned, did not own slaves as well. The Mishnah and Tosefta transmit slave stories about R. Gamliel and his slave Tabi only, whereas the Talmud Yerushalmi associates slaves with R. Yudan Nasia and a few other rabbis.⁷³ Whether this change reflects an actual increase in rabbinic slave ownership or whether it is due to the inclusion of more narrative material in amoraic works must remain uncertain.

As already pointed out above, rabbis like Romans considered the ownership of at least one slave appropriate even for poor people in order to preserve their honour (cf. y. Peah 8: 8, 21a). In Lev. R. it is recommended that when travelling one should not be accompanied by less than two slaves: 'R. Yitzchaq said: The Torah teaches you good manners [דרך ארץ], that a person should not go out on the road with less than two people with him. For if he goes out with less than two people, at the end he will have become a slave of slaves' (Lev. R. 26: 7). The explanation, that he may become 'a slave of slaves' seems to have a

⁷⁰ See also Klein, 'Verhältnis', 366.

⁷¹ Libanius, *Or.* 31. 11, referred to by Moses I. Finley, *The Ancient Economy*, 2nd edn. London 1985, 79.

⁷² Fitzgerald, *Slavery*, 5.

⁷³ R. Gamliel and Tabi (in *baraitot*): y. Nid. 1: 5, 49b; y. Er. 10: 1, 26a; y. Suk. 2: 1, 52d; y. Shebu. 5: 7, 36c par. y. Ket. 3: 10, 28a; y. Ber. 2: 7, 5b. R. Eliezer and his female slave: y. Ber. 2: 7, 5b (*baraita*). Rabbah b. Zutra and his female slave: y. Git. 4: 4, 45d. R. Yochanan and his slave: y. Ket. 5: 5, 30a; R. Tabla and his slave, R. Yizchaq of Haban's slaves, the slave girl of R. Abba b. Ada: y. Git. 4: 6, 46a. Slaves of R. Yudan the patriarch: y. Ket. 9: 2, 33a. Germana, the slave of R. Yudan the patriarch: y. Shab. 6: 9, 8c, cf. y. Yoma 8: 5, 45b; y. Abod. Zar. 2: 10, 42a. Qalah the Southerner, the slave of R. Yudan the patriarch: y. Besah 1: 9, 60d.

double meaning: it can either mean that he would sink to the lowest ranks of the social hierarchy or, if taken literally, that he might end up serving his slave. Whereas there is no evidence for rabbis owning large numbers of slaves, with the exception of the patriarch perhaps, these traditions suggest that rabbis were well aware of the status connotations of slave ownership in antiquity.

The roles of slaves and students are often presented as overlapping in rabbinic literature, and the boundaries between the two types of hierarchically inferior members of a rabbi's household are sometimes blurred. Like slaves, students were required to 'serve' their master. In fact, the service of sages (שימוש הכמים) was seen as the characteristic of disciples of sages, that is, the members of rabbis' close disciple circles.⁷⁴ Like slaves, these students are presented as their rabbinic masters' living companions who are hierarchically inferior to them. They are actually said to have performed tasks for their masters which were commonly assumed to be slaves' work, such as, for example, serving meals and helping their masters to get dressed. Traditions in T. Neg. 8: 2 and y. Shab. 3: 1, 5c refer to students who hand sandals to their teachers. A tradition in Lev. R. 2: 4 refers to an elder who instructed his student how to properly care for his cloak. In a story in y. Shab. 3: 1, 5c a student is depicted as serving hot dishes to his master at his table. A tradition transmitted in y. Ber. 7: 3, 11c relates that a student mixed wine for R. Zeira. A number of menial tasks which students were expected to perform for their teachers are listed in PRK 11: 8: a student washes his master, dresses him, puts on his shoes, supports (literally: carries) him, and guards over him while he sleeps.⁷⁵ Like slaves, students are also frequently said to have accompanied their teachers to the marketplace or bathhouse. A tradition in the Babylonian Talmud explicitly mentions this analogy in the depiction (and actual role?) of students and slaves: 'All manner of service which a slave must render to his master, the

⁷⁴ On this concept see also Moshe Aberbach, 'The Relations between Master and Disciple in the Talmudic Age', in H. Z. Dimitrovsky (ed.), *Exploring the Talmud*, vol. 1, New York 1976, 203–8; Alexei Sivertsev, *Private Households and Public Politics in 3rd–5th Century Jewish Palestine*. Texts and Studies in Ancient Judaism 80. Tübingen 2002, 126–8.

⁷⁵ These tasks are frequently mentioned as typical slaves' work in rabbinic sources, see e.g. Tanh. B. Shemot 4: 10 (Beshallah); Exod. R. 25: 6; y. Qid. 1: 3, 59d; b. Qid. 22b; b. B.B. 53b. See also Pes. R. 23(24): 2, however, where such tasks are assigned to sons: 'What is meant by "honour [your parents]"? That the son is to provide food and drink for his father, that he is to wash, bathe, and anoint him, that he is to put his sandals on for him and to be his escort in all his comings and goings.'

disciple must render to his teacher, except for taking off his shoe' (b. Ket. 96a).

The phenomenon that the students/servants of some of these traditions bear the title 'Rabbi' themselves may indicate that students' obligation to serve their teachers did not end with their own recognition as sages but lasted throughout their lifetime. The hierarchical difference between student and teacher and the former's indebtedness to the latter would have been sufficient to justify this practice.

What may have been the reason for this servile depiction of students? Although none of the individual story traditions can be taken at face value by itself, the phenomenon that both stories and general statements mention this service seems to at least suggest that the service of sages (שימוש חכמים) was an important rabbinic value.⁷⁶ One reason for this phenomenon will have been the close connection between halakhic theory and practice, that is, the service of sages was an integral part of studying and living with a rabbi. But would this living companionship necessarily have included tasks which were commonly associated with slaves? By depicting their students as their servants rabbis presented themselves in the image of Roman aristocrats who had numerous slaves available for their personal care and as prestige objects. Just as upper-class Romans would be accompanied by slaves wherever they went, rabbis as members of the intellectual elite would be accompanied by their students. While the former would always have their slaves near by to render them any desired service, for rabbis students fulfilled the same role.

That freeborn and highly educated members of ancient Jewish society can be presented in the role of slaves and may have actually fulfilled tasks which educated Romans would assign to slaves points to a great difference in the view of service, subservience, and humility in Jewish and Graeco-Roman society.⁷⁷ Serving persons of a higher status within the religious hierarchy was obviously seen as positive by rabbis and their students. The rabbinic masters had undergone this apprenticeship themselves, they had moved from the role of servant to that of master. One may, perhaps, also assume that mature students who were recognized as rabbis themselves would fulfil both of these roles

⁷⁶ On this term see Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine*, Texts and Studies in Ancient Judaism 66. Tübingen 1997, 333–4.

⁷⁷ See also Alfons Weiser, *Die Knechtsgleichnisse der synoptischen Evangelien*, Munich 1971, 20.

simultaneously: they were served by their students while fulfilling the role of servant themselves in the presence of their own (former) teachers. This positive view of serving a religious 'master', who was a representation of Torah scholarship and perhaps seen as an embodiment of the Torah himself, seems to be based on the biblical model of Israel in general as well as individual patriarchs, kings, and prophets as servants of God. Just as everyone, rabbis included, was supposed to see him- or herself as a servant of God, disciples were required to view themselves as servants of rabbis. The hierarchical relationship between God and human beings is expanded backwards, to a lower level of holiness here.

8

Prostitutes and Concubines

ONE of the most fundamental characteristics of ancient slavery was the slave's lack of control over his or her own body. Slaves 'were sexually available and completely subject to the will of their owners'.¹ Even if they were not forced to work as commercial prostitutes, they would nevertheless serve as the functional equivalent of prostitutes as far as the owner himself, his family members, and his friends were concerned. The sexual exploitation to which they were subjected was similar in both cases.² Graeco-Roman literary sources from Homer's *Iliad* to late antiquity provide ample testimony on this aspect of slave-master relationships.³ Members of the slave-owning strata of society did not need to frequent brothels: they had their own or their friends' private prostitutes available at all times.⁴

PROSTITUTION

Nevertheless commercial prostitution also existed.⁵ The large majority of prostitutes were slaves, 'controlled, if not owned, by a *leno*' or

¹ Thomas A. J. McGinn, *Prostitution, Sexuality, and the Law in Ancient Rome*, New York and Oxford 1998, 196.

² Bettina Eva Stumpp, *Prostitution in der römischen Antike*, Berlin 1998, 26.

³ For references to the sexual availability of slaves in the *Iliad* (2. 1, 366; 2. 9, 128–34; 2. 22, 164; 2. 23, 257–61) see Stumpp, *Prostitution*, 26 n. 6. For later Roman sources see e.g. Petronius, *Sat.* 75. 11; Horace, *Sat.* 1. 2, 116 ff.; Seneca, *Contr.* 4. 10.

⁴ See Stumpp, *Prostitution*, 27, who believes that this may have been the reason why brothels were lower-class institutions in Roman society, both with regard to their location, interior design, and clientele.

⁵ On commercial prostitution of women in the Roman Empire see especially Rebecca Flemming, 'Quae Corpore Quaestum Facit: The Sexual Economy of Female Prostitution in the Roman Empire', *Journal of Roman Studies*, 89 (1999), 38 ff.

lena,⁶ whose services were sold on the street as well as in brothels, taverns, inns, and bathhouses.⁷ War captives, people captured by robbers, exposed children, and home-bred slaves could all be subjected to this fate.⁸ Employers of prostitutes would raise abandoned children and later rent them out or sell them as prostitutes.⁹ Captured women and boys would be offered as prostitutes on slave markets.¹⁰ One can imagine that many of the thousands of Jews captured by the Romans during the first and second revolts would eventually have met this fate. The story about R. Yehoshua's encounter with a beautiful young boy from Jerusalem, who was living as a war captive in Rome, threatened with prostitution (cf. T. Hor. 2: 5–6, quoted above), can be considered a reflection of this phenomenon. R. Yehoshua is said to have been able to eventually redeem the boy and to send him back home.

Public bathhouses were amongst the prime locations where prostitutes were found.¹¹ Martin Jacobs has shown that the Talmud Yerushalmi contains a number of indirect allusions to this phenomenon which was known to Palestinian rabbis as well.¹² Y. Taan. 1: 4, 64b transmits a story about a person who bears the nickname Pentekaka, according to the five sins which he allegedly committed: decorating the theatre, renting out prostitutes, carrying their clothes to the bathhouse, clapping his hands in applause for them, and dancing and making music in front

⁶ See Flemming, '*Quae Corpore Quaestum Facit*', 51. Flemming stresses the interconnectedness and analogy between slavery and prostitution: 'prostitution inherently compromises the personhood, the subject-status of the prostitute while enhancing the manhood, the subject-status and power, of the purchaser; it thus assimilates, in a gender specific way, the prostitute to the position of the slave and the purchaser to that of the master' (58).

⁷ For locations in Byzantine Palestine where prostitutes would be found see Claudine Dauphin, 'Brothels, Baths and Babies. Prostitution in the Byzantine Holy Land', *Classics Ireland*, 3 (1996), 50 ff. Dauphin believes that the bones of almost a hundred infants found in the 4th- to 6th-cent. baths of Ashkelon belonged to the children born to prostitutes working in the baths, who had been killed after their birth. On these finds see also Lawrence E. Stager, 'Eroticism and Infanticide at Ashkelon', *Biblical Archaeology Review*, 17 (1991), 46–7.

⁸ See Flemming, 'Sexual Economy', 40–1.

⁹ Stumpp, *Prostitution*, 29–33; Flemming, 'Sexual Economy', 41.

¹⁰ Stumpp, *Prostitution*, 29.

¹¹ See Ammianus Marcellinus, *Rerum gestarum libri* 28. 4. 9, mentioned by Martin Jacobs, 'Römische Thermenkultur im Spiegel des Talmud Yerushalmi', in Peter Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 1, Texts and Studies in Ancient Judaism 71, Tübingen 1998, 256.

¹² Ibid.

of them. Jacobs suggests that the text may refer to the prostitutes' move from the theatre to the bathhouse. Pentekaka would bring their clothes from one place to the other then. In the Hellenistic and Roman cities of the Near East the theatre and the bathhouse were often found in the same vicinity.¹³ Whether the dance and musical entertainment took place in the theatre or the bathhouse remains unclear. Another way of understanding the text would be to reckon with stages or performance spaces in the bathhouses themselves. Perhaps prostitutes entertained bathers in the courtyards or other areas of the bathhouses which functioned as their temporary 'theatres'. Jacobs reckons with the possibility that Pentekaka was a mime or pantomime himself who would hire and rent out prostitutes for performances in the theatre and elsewhere.¹⁴

Another possible yet rather uncertain allusion to a prostitute in a bathhouse, mentioned by Jacobs, appears in y. Shevi. 8: 2(4), 38a. Only the London manuscript version of the text may refer to a prostitute. R. Chizqiah is said to have given an oil jar to a person in a bathhouse who is called **זוסימי אולירא**, 'Zosime, the *olearia*', in this manuscript. The *olearia* probably functioned as a masseuse or as a masseuse's assistant who would anoint her male customers' bodies after the bath. In all likelihood such bath attendants were slaves who also fulfilled their customer's sexual fantasies.¹⁵ Whether the text originally referred to a woman remains uncertain, though.¹⁶

Slaves could also be employed by prostitutes as their assistants. A story in Sifre Num. mentions the female slave of a whore who is said to have functioned as the prostitute's doorkeeper, letting customers into the house (cf. Sifre Num. 115). The prostitute is presented as wealthy here: she allegedly donated her property to the poor.

Although most of the prostitutes were female, until Christianity's rise to power, male prostitution existed in the Roman Empire as well. Verstraete has stressed that 'throughout classical Roman literature there runs an assumption, whether explicitly stated or implicitly understood, that young male slaves were available for the sexual gratification

¹³ Ibid. ¹⁴ Ibid.

¹⁵ Jacobs, 'Thermenkultur', 257 n. 210 refers to an epigram transmitted in the *Anthologia Graeca* 5. 82 in this regard.

¹⁶ The editio princeps has **זוסימי אודייתא**. Samuel Krauss, *Griechische und lateinische Lehnwörter im Talmud, Midrash und Targum*, vol. 2, Hildesheim 1964 (1st pub. Berlin, 1899), 246, thinks that this Zosimus was responsible for the bathhouse's heating system.

of citizens', whether for their owners and their friends only or for the adult male citizen at large.¹⁷ For a writer like Juvenal, for example, 'some kind of concubinage with a young male slave' was 'a perfectly legal and acceptable arrangement' to escape the tyranny of a dominating wife.¹⁸ With the rise of Christianity, homosexuality and the existence of male prostitutes were increasingly criticized, however, and eventually outlawed in 390 CE. An edict of Theodosius I threatened to impose the death penalty on those who sold males into prostitution (C.Th. 9. 7. 6). Dauphin points out correctly that this edict was not directed against prostitution as such but against the idea that male bodies could be penetrated and used in the same way as those of women.¹⁹ Nevertheless male prostitution continued, especially in the eastern parts of the empire, where it remained legal but was subjected to taxation.²⁰

SLAVE - 'BREEDING'

Masters would have had a strong interest in encouraging their female slaves to have children in order to increase the number of slaves born within their household (*vernae*).²¹ Such slaves were considered most reliable and often obtained a superior status within the family and household economy. It is unlikely, though, that slave owners would purchase and maintain large numbers of female slaves for the purpose of slave procreation.²² To what extent they would have forced their slaves to have sexual contacts with each other or with themselves and/or rewarded slave women who bore many children remains uncertain and probably varied from one slave holder to the next.²³ One may assume that since slaves stood beyond the realms of shame and honour, no precautions

¹⁷ Beert C. Verstraete, 'Slavery and the Social Dynamics of Male Homosexual Relations in Ancient Rome', *Journal of Homosexuality* 5 (1980), 227.

¹⁸ Ibid. 228 with reference to Juvenal, *Satires* 133–7.

¹⁹ Dauphin, 'Brothels', 55 ff. ²⁰ See *ibid.*

²¹ On *vernae* see Elisabeth Herrmann-Otto, *Ex Ancilla Natus. Untersuchungen zu den 'hausgeborenen' Sklaven und Sklavinnen im Westen des Römischen Kaiserreiches*, Stuttgart 1994, 231–87.

²² See William V. Harris, 'Towards a Study of the Roman Slave Trade', *Memoirs of the American Academy in Rome*, 36 (1980), 120.

²³ Columella recommends rewards for slave women on country estates who were particularly fertile: 1. 8. 19.

had to be taken in this regard: 'As a being without rights or honour, the slave can be treated and exploited like an animal or a thing.'²⁴ But during her pregnancy and nursing period the slave woman would have been less able to perform other tasks for the householder, and to raise slave children until the age when they were able to work would have been an expensive enterprise at a time when ordinary slaves could be bought more cheaply on the slave market. When the market supply of slaves was limited, however, the 'production' of home-born slaves may have increased.²⁵

The practice of breeding slaves within the household is reflected in a midrashic matrona-story:

A matron asked R. Yose b. Halafta. She said to him: In how many days did the Holy One Blessed Be He create his world? He said to her: In six days, for it is written: 'For in six days the Lord made heaven and earth' [Exod. 31: 17]. She asked him: From then onwards, what did he sit and do? He said to her: He is sitting and joining couples, [saying]: The daughter of So-and-So is [to be married] to so-and-so, the [former] wife of So-and-So is [to be married] to So-and-So, the possession of So-and-So is [to be married] to So-and-So. She said to him: How many male and female slaves I have! And in a short time I join them together. He said to her: If it is easy in your eyes, it is as difficult before Him as the dividing of the Red Sea, as it is written: 'God restores the lonely to their homes . . . ' [Ps. 68: 7]. R. Yose b. Halafta went home. What did she do? She sent and brought a thousand male and female slaves and made them stand up in rows. She said to them: So-and-So [m.] take So-and-So; and So-and-So [f.] take So-and-So. In the morning they came to her. One had his head wounded; one had his eye taken out; one had his hand broken; one had his leg broken; one [m.] said: I do not want this one [f.]; and this one [f.] said: I do not want this one [m.]. She sent for him and said to him: Your Torah is beautiful, fine, and excellent. He said to her: Have I not told you: If it is light in your eyes, it is as difficult before the Lord as dividing the Red Sea, as it is said: 'God restores the lonely to their homes . . . ' (Lev. R. 8: 1 par. PRK 2: 4).

The story contains a humorous element in its description of the matron's failed matchmaking efforts. From the perspective of the slaves, the situation must have been much more serious, though. Slave owners' carelessness in coupling their slaves for their own selfish purposes and

²⁴ William Fitzgerald, *Slavery and the Roman Literary Imagination*, Cambridge, 2000, 50.

²⁵ Slave women would also abort, abandon, or kill their newborn babies, or use contraceptives, see Hermann-Otto, *Ex Ancilla Natus*, 249. These practices would further limit the number of home-born slaves.

slaves' attempts to rebel against circumstances which they were unable to change are revealed here as well. Interestingly, unlike the matron R. Yose b. Halafta does not differentiate between free and enslaved people with regard to the care to be taken in coupling them for matters of procreation, which the rabbis seem to have considered a basic human right, irrespective of status distinctions (cf. M. Git. 4: 4).

Some rabbis seem to have viewed certain forms of forced procreation of slaves as equal to prostitution, whereas others disagreed, as M. Tem. 6: 2 indicates: 'What is [considered] hire of a whore [אֶתְנָן]? ... He who says to his fellow: Here is this lamb for you, and let your slave woman sleep with my slave—Rabbi says: [This is] not [considered] hire. But sages say: [It is considered] hire.'²⁶ This *mishnah* deals with the coupling of slaves from different households only. Does this imply that all rabbis would consider the coupling of slaves from one and the same household legitimate? In the case of slaves from different households, coupled by their owners by force, Rabbi is said to have considered the practice permissible. According to him, it does not fall under the category of prohibited engagement in commercial prostitution, even if the owner of the slave woman is remunerated for renting her out. The subsequently quoted opinion of sages who were allegedly opposed to the practice, may reflect the Mishnaic editors' view. In T. Tem. 4: 6 the sages' opinion is attributed to R. Yose b. Yehudah and the following qualification is added: 'for hire of a whore applies only in the case of prohibited sexual relations, intercourse with whom constitutes a transgression'. This explanation suggests that not any form of forced sexual coupling of slaves should be viewed as prostitution. Only the (forced or voluntary) sexual intercourse between an Israelite and a slave should be outlawed, whereas any forced sexual usage of slaves is seen as legitimate.

Classical Roman law did not forbid the prostitution of slaves by their owners but protected slaves against prostitution if a stipulation had been made by their owners at the time of their sale.²⁷ The clause *ne serva prostituatur* was one of the four restrictive covenants in the sale of slaves

²⁶ The text has a parallel in Sifre Deut. 261.

²⁷ See the discussion in McGinn, *Prostitution*, 309: Severus' ruling, transmitted in *Dig.* 1. 12. 1. 8, according to which the prefect should grant a hearing to slaves who complain that their master subjected them to 'obscenity' cannot serve as evidence of a general prohibition of slave prostitution: 'The great number of contemporary and subsequent legal sources that discuss prostitution neither mention such a ban nor presuppose its existence.'

recognized by classical law.²⁸ Although Roman jurists had dealt with the issue before the time of Vespasian, the first evidence of imperial intervention is connected with the latter.²⁹ If a slave woman was sold (at a financial disadvantage) by her owner under the condition that she should not be prostituted, and the buyer nevertheless prostituted her, she would become free and her former owner (who set up the condition) would become her patron, unless he had transgressed the stipulated condition himself (cf. Hadrian's *constitutio* in Justinian's Codex 4. 56. 1).³⁰ McGinn notes that 'it is striking that the range of covenants was never expanded to include other professions besides prostitution that might be considered dishonorable or even dangerous (for example, acting on stage or fighting beasts in the arena)'.³¹ He suggests that the focus on prostitution was connected to the 'honor-shame syndrome' prevalent in Roman society: 'In Rome the male members of the family had the responsibility of protecting the sexual integrity of the women, even, in some circumstances, that of slaves about to be alienated.'³²

The Mishnaic ruling (M. Tem. 6: 2, above) deals with a different yet related issue. It is not the sale of a slave woman to a new owner who might rent her out as a prostitute which is envisioned there but the renting of someone else's slave woman for purposes of increasing one's own slave *familia* through forced procreation. Both cases involve the subjection of a female slave to forced sexual intercourse. Although they seem to protect the slave woman, they are actually concerned with the (limitation of the) rights of the slave-owning class. The rabbis of M. Tem. 6: 2 were concerned with slave owners' possible involvement in a morally questionable transaction (אֶתְנָן). Roman jurists and emperors were concerned with the moral integrity of the slave owner's household and the preservation of the power and honour of the original owner of the slave. McGinn is certainly correct when noting that the practical consequences of the *ne serve prostituatur* regulation will have been limited: the ruling will have affected only a small number of those women who were forced to work as prostitutes.³³ This consideration may also be applied to rabbinic rulings outlawing the hiring of others'

²⁸ See McGinn, *Prostitution*, 289.

²⁹ Ibid. 292–3 with reference to *Dig.* 37. 14. 7 pr.

³⁰ Ibid. 294. See also *Dig.* 2. 4. 10. 1: subsequent emperors elaborated Hadrian's decree.

³¹ Ibid. 291.

³² Ibid. 289.

³³ Ibid. 305.

slave women for purposes of increasing the number of one's own *vernae*. Since this was a mutual agreement between owners, Roman law would not even deal with such a case.³⁴

THE SALE OF CHILDREN

One way in which originally free persons could become enslaved and forced to prostitution or concubinage was by being sold by their parents. Justin Martyr claimed that pagans would customarily sell the sexual services of their own wives and children.³⁵ Although this claim is certainly exaggerated and meant to denounce pagan practices and morality in order to enhance the allegedly superior Christian ethics, the sale of children, and especially daughters, by their parents did occur and continued in late Roman and early Byzantine times. Justin's 'accusation is supported, without the religious qualification, by the legislation of early Christian emperors formalizing at least one means of escape for daughters from 'lenones patres', that is, fathers who prostitute them'.³⁶ If the sale of daughters into slavery and prostitution had not happened, legal measures would not have been necessary.

The sale of children by their fathers was practised as an alternative to child exposure by poor parents unable to rear their children themselves. The father's right (*patria potestas*) over his children was 'almost absolute' in Roman law.³⁷ According to the second-century jurist Gaius, 'this right is one which only Roman citizens have; there are virtually no other peoples who have such power over their sons as we have over ours' (*Inst.* 1. 55). Barrow states that 'one of the rights given by the *patria potestas* from earliest times was the right to sell a child'.³⁸ The law of the Twelve Tables stipulated that a father would lose his authority to sell his son

³⁴ The later Christian emperors took some measures against pimping, but they seem to have been limited and ineffectual, as McGinn, *Prostitution*, 305, has pointed out. See *ibid.* n. 84 for references to Byzantine emperors' legislation.

³⁵ Justin, *Apol.* 1. 27. See Flemming, 'Sexual Economy', 41.

³⁶ *Ibid.* 41, with reference to Justinian's Codex 1. 4. 12 and 11. 41. 6 (= C.Th. 15. 8. 2).

³⁷ Antti Arjava, 'Paternal Power in Late Antiquity', *Journal of Roman Studies*, 88 (1998), 147.

³⁸ R. H. Barrow, *Slavery in the Roman Empire*, New York and London 1968 (1st pub. 1928), 10. See also Nathan, *Family*, 26: 'Should a father have many male children, he was completely within his rights to sell them into slavery.'

only after he had already taken advantage of this right three times.³⁹ On the basis of 'much indication of real sale of children' Boswell assumes that such sales were legal or at least not prohibited outright until the second century CE.⁴⁰ In the middle of the second century Antoninus declared a Roman father's sale of his son an 'illicit and shameful thing' (*rem quidem illicitam et inhonestam*) which should not result in the latter's permanent slave status,⁴¹ and a century later Diocletian referred to 'an evident principle of law' which forbade fathers to sell their children or to force them into debt slavery.⁴² One may assume that Antoninus and Diocletian tried to exclude the sale of children from *patria potestas* in order to restrict the enslavement of free Roman citizens.⁴³ Boswell notes, however, that 'the rulings did not *prohibit* or penalize such sales, but simply declared them invalid: if the child (or a relative) wished subsequently to reclaim his freedom, he could do so, and the fact of the sale could not be invoked by the buyer to retain him'.⁴⁴

In contrast to these Roman emperors' attempts to restrict the sale of freeborn Romans and to enable the sons to regain their formerly free status after having been sold by their fathers, Constantine explicitly authorized the sale of infants in 313 CE.⁴⁵ He seems to have revoked this

³⁹ See John Boswell, *The Kindness of Strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance*, London 1988, 65, with reference to the Twelve Tables 4. 2, cited by Ulpian (*Liber singularis regularum*) 10. 1: 'si pater filium ter venunduit, filius a patre liber esto'. For an explanation of this rule which links it to *nexum* (debt slavery) see Alan Watson, *Rome of the XII Tables: Persons and Property*, Princeton 1975, 118–19: a father may have given his son into debt slavery three consecutive times, each time until the debt had been paid off by the son's work. Cf. Gaius, *Inst.* 1. 132, 4. 79; Dionysius of Halicarnassus 2. 27; Justinian, *Inst.* 1. 12. 6.

⁴⁰ Boswell, *Kindness*, 66, who in n. 41 points to a case related by Valerius Maximus 6. 1. 9, Livy 8. 28, and Dionysius of Halicarnassus 16. 9. For further evidence of such sales see Ludwig Mitteis, *Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreichs*, Leipzig 1891, 358–64. Maria Bianchi Fossati Vanzetti, 'Vendita ed Esposizione degli Infanti da Costantino a Giustiniano'. *Studia et Documenta Historiae et Iuris* 49 (1993), 182, believes, however, that the later legislation against the sale of children was not innovative but based on earlier legal traditions.

⁴¹ Cf. Codex Justinianus 7. 16. 1: 'Sed quia factum tuum filiis obesse non debet'.

⁴² Cf. C.J. 4. 43. 1 and 4. 10. 12. ⁴³ Boswell, *Kindness*, 67.

⁴⁴ Ibid. 68. See also Paul, *Sent.* 5. 1. 1, quoted by Boswell *ibid* 68–9: 'Anyone who, faced with extreme necessity or to obtain food, sells his own children, does not prejudice their status as freeborn; for no price can be put on a free person.'

⁴⁵ William V. Harris, 'Child-Exposure in the Roman Empire', *Journal of Roman Studies* 84, 1994, 1; Boswell, *Kindness*, 69–70 with reference to Theodor Mommsen (ed.), *Iuris antejustiniani fragmenta quae dicuntur Vaticana*, Berlin 1861, fr. 34, pp. 8–9.

right a couple of years later, though, when emphasizing that freeborn Roman citizens' freedom took priority over the *paterfamilias'* power of life and death over his children.⁴⁶ The emperor's uncertainty and ambiguity in dealing with the issue becomes clear again in 329, when he states that although the sale does not necessarily result in the child's permanent slave status, the buyer has a right to the slave services he paid for and must be reimbursed by the father who wants to reclaim his child.⁴⁷

In a law of 391 CE (Valentinian II) the desperate circumstances which led some parents to sell their children are directly addressed and taken into consideration. Valentinian permitted parents to sell their children for an unspecified period of time to pay off debts but, like Constantine, allowed such children to reclaim their free status after they were sold:

All those persons whom the piteous fortune of their parents has consigned to slavery while their parents thereby were seeking sustenance shall be restored to their original status of free birth. Certainly no person shall demand repayment of the purchase price, if he has been compensated by the slavery of a freeborn person for the space of time that is not too short (*non minimi temporis spatium*) (C.Th. 3. 3. 1).

The emperor obviously tolerated poor people's practice of selling their children into slavery. If a father had sold his child, the child should not stay in slavery perpetually, however, but would become free once the child's slave service had compensated for the money the father owed the purchaser. The child should be restored to its originally freeborn status without the obligation to repay the purchase price. This legislation tried to solve the conflict between maintaining or restoring freeborn persons' free status⁴⁸ and upholding the *paterfamilias'* right to sell his children, a power which imperial laws occasionally tried to limit but probably could not eliminate, especially when economic circumstances and the lack of public charitable institutions provided few alternatives.⁴⁹

⁴⁶ C.J. 8. 46. 10.

⁴⁷ C.J. 4. 43. 2, and a variant version in C.Th. 5. 10. 1.

⁴⁸ Geoffrey S. Nathan, *The Family in Late Antiquity: The Rise of Christianity and the Endurance of Tradition*. London and New York, 2000, 137: 'There was a clear policy as old as the Empire outlawing or at least discouraging the barter of free individuals.'

⁴⁹ See Peter Brown, *Poverty and Leadership in the Later Roman Empire*, the Menahem Stern Jerusalem Lectures, Hanover and London 2002, 3–5: the practice of *euergetia*, public benefaction by wealthy donors, did not involve direct donations to the poor: 'These gifts were directed either to the "city" as a whole—in the form of public

It is uncertain whether and to what extent Roman law in general and the legal definition of paternal power in particular affected civil legislation and social customs in other Roman provinces as well, especially after 212 CE when Roman citizenship was extended to all inhabitants of the Roman Empire.⁵⁰ Although Gaius maintained that the almost unlimited power of the *paterfamilias* in Roman society was unknown to almost all other peoples (cf. Inst. 1. 55, referred to above), one may assume that 'the situation was not quite so simple'.⁵¹ People in other provinces may have developed similar laws and customs independently of the Romans or they may have been influenced by Roman legislation and practices in some regards only, preserving their local traditions in others.

The father's right to sell his children, or at least his daughter, and the likelihood of the owner's use of the girl for his own sexual gratification is taken for granted in the Torah. It appears in the so-called 'Concubine Law' of Exod. 21: 7–11, already quoted above.⁵² The passage deals with a father who sells his daughter to someone else, aware that this master would have sexual relations with her outside of a proper marriage relationship. Unlike male Israelite slaves who, according to biblical law, shall be set free in the seventh year of their service, the slave concubine shall remain in her master's household throughout her life. The reason for this regulation probably was that the girl, even if freed, would hardly have found a marriage partner and subsistence, since she was commonly suspected of having had sexual intercourse with her master. If she remained a member of the master's household and in good standing, she would be better off, since she would at least receive food and clothes. The passage continues to state that if her master got tired of her after having exploited her sexually, he should not simply sell

buildings—or to a clearly designated core of "citizens", a *démos*, a *populus* or *plebs*... There was little room in such a model for the true urban "poor", many of whom would, in fact, have been impoverished immigrants, noncitizens, living on the margins of the community.'

⁵⁰ See also Arjava, 'Paternal Power', 147: 'If *patria potestas* was a distinctive feature of Roman society, how did the other peoples of the Empire react to it after the universal grant of the Roman citizenship in A.D. 212?'

⁵¹ Ibid. 155.

⁵² For the term 'Concubine Law' see Calum Carmichael, 'The Three Laws on the Release of Slaves (Ex 21,2–11; Deut 15,12–18; Lev 25,39–46)', *Zeitschrift für die Alttestamentliche Wissenschaft*, 112 (2000), 515. See also Ch. 4 above.

her to someone else. In such a case it would be more advantageous for the woman to be redeemed by her father or another person than staying under her neglectful master's influence.⁵³

According to M. Sot. 3: 8, which seems to be based on the Exodus text, one of the differences between a man and a woman is that 'a man sells his daughter, but a woman does not sell her daughter'. As in Roman law, the authority to sell children is here limited to fathers. As in Exod. 21: 7 ff., only the sale of daughters is mentioned. Perhaps the sale of daughters was specifically noteworthy because of the immorality involved, that is, the possibility of sexual exploitation by the master.⁵⁴ For the rabbis just as for Romans, the girl's 'sexuality was, in a real sense, for her father and family to dispose of, either in marriage or otherwise'.⁵⁵ In the Mishnah text's parallel in the Mekhilta (Mekh. Neziqin/Mishpatim 3) as well as in M. Ket. 3: 8 (cf. T. Ket. 3: 8) and M. Qid. 1: 2 the father's right to sell his daughter is explicitly limited to the time before the girl's puberty, that is, to minor daughters.⁵⁶ The sale of an adult daughter was probably seen as a direct sale into prostitution, and this consideration may have been the reason for the following statement in the Mekhilta as well, that an adult woman, unlike a man, may not sell herself.⁵⁷

In contrast to the Torah and the Mishnah, which do not address the issue, the Mekhilta clearly states that a father may not sell his son. This regulation seems to stand in contrast to the earlier Roman views on the unlimited power of the *paterfamilias* over his dependants, but it is in line with the later emperors' endeavours to limit the sale of children (see above). While some Roman emperors tried to make freeborn Roman children's slave status temporary only, some rabbis suggested that the sale of minor daughters was permissible, but not of adult daughters or sons. Minor daughters were probably the ones whom the poor were most likely to sell anyway, since parents would generally value daughters

⁵³ On the basis of the Mekhilta's reading (3: 24 ad Exod. 21: 7–11) Carmichael assumes 'that her father is to redeem her' (516).

⁵⁴ According to Justin Martyr, *Apol.* 27–9, prostitution would always be the fate of exposed—and probably also sold—children.

⁵⁵ Flemming, 'Sexual Economy', 42.

⁵⁶ See also y. Qid. 1: 2, 59a–d. This is in contrast to the law of Solon who, according to Plutarch, prohibited the sale of virgins, see Plutarch, '*Solon*' 13. 23.

⁵⁷ See also M. Ket. 3: 8: 'A mature woman is not subject to sale.'

less than sons and may not have been willing or able to feed them and/or to provide them with a dowry.⁵⁸

MISTRESSES AND CONCUBINES

The fact that slaves were always available for sexual intercourse with their masters must have alienated wives from their husbands, even if this practice was taken for granted in antiquity. In their role as gratifiers of sexual urges slaves provided a cheap alternative to prostitutes.⁵⁹ Female slaves who had sexual relationships with their masters seem to have been excluded from adultery charges under the *lex Iulia de adulteriis*, although it is not known whether the 'law exempted slaves expressly'.⁶⁰ As McGinn has pointed out correctly, Roman family law's purpose was 'to safeguard the sexual integrity of the household, which rested more or less exclusively with the female members but which it was the responsibility of the males to defend'.⁶¹ Therefore mistresses' relationships with their male slaves could be prosecuted legally, whereas the law turned a blind eye on masters' sexual exploitation of their female slaves.⁶²

Richard Saller has studied the ways in which 'slavery affected family roles and relations'.⁶³ He has argued that the presence of house slaves did not only 'enhance the distance between husband and wife', but had other effects as well.⁶⁴ Since, according to both Roman and rabbinic law, children born to slave mothers would automatically be considered slaves, sexual relationships with slave women provided an effective means of limiting the number of heirs to one's property: 'Roman men who did not want more legitimate children need only turn their sexual energies to women of lower status instead of legitimate wives'.⁶⁵ Slaves had no means to protect themselves against the sexual advances of their

⁵⁸ Cf. Richard Saller, 'Slavery and the Roman Family', *Slavery and Abolition* 8 (1987), 70–1.

⁵⁹ McGinn, *Prostitution*, 196 and n. 448.

⁶⁰ *Ibid.* 197.

⁶¹ *Ibid.* 312.

⁶² On the SC Claudianum of 52 CE see Alan Watson, *Roman Private Law around 200 BC*, Edinburgh 1971, 10–11. On the legal inequality between slave–master and slave–mistress relationships see Judith Evans-Grubbs, "Marriage more Shameful than Adultery": Slave–Mistress Relationships, "Mixed Marriages" and Late Roman Law', *Phoenix* 47 (1993), 125–54.

⁶³ Saller, 'Slavery', 66.

⁶⁴ *Ibid.* 77.

⁶⁵ *Ibid.* 72.

owners, and one may assume that these encounters also usually happened without their mistresses' consent.

The biblical depiction of sexual relationships between some patriarchs and their female slaves differs from the Roman practice just described in a number of regards. In the biblical accounts the slave women are often said to have been sent by their mistresses to their masters' beds. The slaves were supposed to function as substitutes for women who were unable to bear children. Once they were born, these children were considered legitimate members of the householder's family. They could even become heirs. Sexual relationships with slave women did not serve to limit but to increase the number of children and heirs within the family. Yet biblical accounts also know of the conflict between husbands and wives which slave women might cause.

For example, Sarai, Abraham's wife, allegedly asked her husband to sleep with her Egyptian maid Hagar (cf. Gen. 16: 1 ff.). When Hagar became pregnant, however, Sarai is said to have become jealous and treated her in a cruel way. Once Ishmael was born, she said to Abraham: 'Cast out that slave woman and her son, for the son of that slave shall not share in the inheritance with my son Isaac' (Gen. 21: 10). Abraham is eventually advised by God to give in to his wife and to send Hagar and her son away, but Ishmael is nevertheless considered Abraham's proper son rather than his slave (cf. 21: 12–13). It seems that in contrast to later Roman and Jewish society the patrilineal principle governed the determination of the children's slave or freeborn status here.

Elsewhere in the Bible it is indicated that women's agreement to sexual relationships between their husbands and their female slaves for the purpose of producing offspring should be considered praiseworthy. When Leah had given birth to her fifth son, she allegedly considered this a reward for having given her maid Zilpah to Jacob as a concubine (cf. Gen. 30: 18). For the authors of these texts families with a large number of children seem to have been the ideal, and means toward increasing that number, for example through slave women as wives' sexual substitutes, are presented as commendable. A pericope in Exod. 21: 7–11 (see above) points in the same direction. The master's use of his Hebrew slave girl as a concubine for himself or his son is recommended here. Manumission is not mentioned as a prerequisite for such a concubinage

relationship and neither is full marriage envisioned.⁶⁶ It remains uncertain whether full marriage with a slave is implied in 1 Chr. 2: 34–5: Sheshan is said to have given his daughter to his Egyptian slave Jarha (הַיִּתֵּן . . . לְאִשָּׁה, 'and he gave . . . as a wife'), and she bore him a son.

The same phenomenon is reflected in a text which addresses the topic of sexual relations with female war captives:

When you take the field against your enemies, and the Lord your God delivers them into your power and you take some of them captive, and you see among the captives a beautiful woman and you desire her and would take her to you as a woman [וְלִקַּחְתָּ לָךְ לְאִשָּׁה], you shall bring her into your house, and she shall trim her hair, pare her nails, and discard her captive's garb. She shall spend a month's time in your house lamenting her father and mother; after that you may come to her and possess her, and she shall be your woman [וְהָיְתָה לָךְ לְאִשָּׁה]. Then, should you no longer want her, you must release her outright. You must not sell her for money: since you had your will of her, you must not enslave her (Deut. 21: 10–14).

It is clearly implied here that the woman remains a slave and can be dismissed whenever her owner gets tired of her. Therefore the term לִקַּחְתָּ לְאִשָּׁה ('to take as a woman') cannot mean that her master took her as a wife, that is, married her.⁶⁷ The suggestion that the owner should release the woman, when he is no longer pleased with her, is very reminiscent of the 'Concubine Law' of Exod. 21: 7–11. There, too, it was ruled that the slave woman should not be sold to outsiders after her master had sexual relations with her.

The Elephantine documents seem to stand within the biblical tradition of blurred boundaries between slaves and freeborn persons which allowed for the slaves' and their children's partial or full integration into the family. As already mentioned, these documents contain a marriage or concubinage contract for Ananiah b. Azariah and Tamut,

⁶⁶ See also Lev. 19: 20–2, where it is stated that sexual intercourse with another man's concubine ('a woman who is a slave and has been designated for another man, but has not been redeemed or given her freedom') is punishable with a guilt offering. On this text see Baruch J. Schwartz, 'A Literary Study of the Slave-Girl Pericope—Leviticus 19: 20–22', *Scripta Hierosolymitana*, 31 (1986), 241–55.

⁶⁷ In his interpretation of the biblical text Philo, *De virt.* 111–12, writes that the owner should enter a 'lawful marriage' [ὡς γαμετῇ νόμῳ συνέρχου] with the war captive, if he wants to have sexual relations with her. Later he assumes, however, that the owner might dismiss her and replace her by another woman. Like the Torah he rules that the slave concubine should be manumitted then (*ibid.* 115).

the Egyptian slave of Meshullam, but do not indicate that Tamut was manumitted by her owner.⁶⁸ The contract also indicates that Tamut had a child (probably with Ananiah) which her owner (and the child's) allowed her to bring into Ananiah's family, that is, he was willing to release him from his authority.⁶⁹ Bezalel Porton has suggested that the economic support which Ananiah would provide for the son would compensate the owner for the loss of his slave.⁷⁰ A daughter born to the couple later on would, like her mother, remain enslaved until their manumission.⁷¹ It seems that 'the status of the children from such a relationship—slave or free—will depend on the father's choice whether or not to recognize them' and on the owner's permission to give them their freedom.⁷² In connection with another Egyptian papyrus Eyre has pointed to the 'spectrum of possible circumstances, not easily identifiable in the documentation'.⁷³ The purpose of such procedures seems to have been to establish 'normal family, marriage and property alliances within the immigrant community'.⁷⁴

ILLEGITIMATE UNIONS

At least by Roman imperial times the social and economic circumstances had changed. In the literary and legal texts of this period one does not encounter the earlier eagerness to use concubines to increase the size of one's family. While householders' sexual relations with slaves continue to be taken for granted, marriage with slave concubines and their integration into the family have become illegal. Only marriages between Roman citizens were considered *iustae nuptiae*.⁷⁵ The children of slave

⁶⁸ Emil G. Kraeling (ed.). *The Brooklyn Museum, Aramaic Papyri: New Documents of the Fifth Century B.C. From the Jewish Colony at Elephantine*, New Haven, 1953, no. 2.

⁶⁹ Bezalel Porton, *Archives from Elephantine: The Life of an Ancient Jewish Military Colony*, Berkeley and Los Angeles 1968, 190: 'an extraordinary case was that of the slave child given over by his owner to his mother and her husband upon their marriage (K 2:13–13b)'.

⁷⁰ Ibid. 208.

⁷¹ Both Tamut and her daughter were later manumitted, see deed no. 5 in Kraeling, *Aramaic Papyri*.

⁷² C. J. Eyre, 'The Adoption Papyrus in Social Context', *Journal of Egyptian Archaeology*, 78 (1992), 211.

⁷³ Ibid. ⁷⁴ Ibid. 215.

⁷⁵ Beryl Rawson, 'Family Life among the Lower Classes at Rome in the First Two Centuries of the Empire', *Classical Philology*, 61 (1966), 72; P. R. C. Weaver, 'The Status

mothers were automatically considered slaves themselves (cf. Gaius, *Institutes* 1. 81).⁷⁶ Clear-cut boundaries between slaves and freeborn persons were established which were properly guarded by legal rules.⁷⁷ A limitation of property and resources available to the householder may have made a limitation of family size necessary. The regulation allowed freeborn Romans to maintain sexual relationships with female slaves without having to include the offspring of such unions amongst their potential heirs.⁷⁸ Genealogical considerations, that is, the attempt to maintain a proper Jewish lineage, may have been another reason for these developments.

The changed view on unions between slaves and freeborn men is already evident in Greek Jewish literature and Josephus' writings. In his paraphrase of the biblical Joseph story the author of the novel *Joseph and Aseneth* introduced significant changes. There is no reason to assume that the biblical authors of Gen. 30 would not have considered Dan and Gad, the sons which Jacob had with the slave women Bilhah and Zilpah, the patriarch's legitimate offspring, his heirs and full members of his family. In Jos. As. 24: 8–9, on the other hand, it is argued that they were the sons of a slave woman and therefore not Joseph's proper brothers. When Pharaoh's son tried to persuade Dan and Gad to revolt against Joseph, he alleged that Joseph had told Pharaoh that his two brothers, who had sold him into slavery, were not his real brothers and co-heirs due to their servile origin. The rule that the children of slave women were considered slaves clearly forms the basis of the author's alteration of the biblical story here.

Opposition to sexual union with slave women is clearly expressed in Josephus' writings. Whereas Lev. 21: 7 states that priests are forbidden to marry prostitutes and divorced women, Josephus adds slave women

of Children in Mixed Marriages', in Beryl Rawson (ed.), *The Family in Ancient Rome: New Perspectives*, 2nd edn., London 1992, 145.

⁷⁶ Quoted in Watson, *Slave Law*, 10. Cf. William W. Buckland, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge, 1970 (1st pub. 1908), 397–8; Weaver, 'Status', 147. On this issue see also Rawson, 'Family Life', 72, with reference to Gaius, *Inst.* 1. 56, 89 and Ulpian, *Reg.* 5. 8–10. According to Diod. Sic. 1. 80. 3, Egyptians differed in this regard: 'Nor do they hold any child a bastard, even though he was born of a slave mother; for they have taken the general position that the father is the sole author of procreation and that the mother only supplies the fetus with nourishment and a place to live...'

⁷⁷ Saller, 'Slavery', 67.

⁷⁸ *Ibid.* 72.

and female prisoners of war to the list of forbidden relationships (cf. *Ant.* 3. 276). Elsewhere he seems to present a possible reason for this ruling: women captives are suspected of having had sexual intercourse with foreigners (cf. *C. Ap.* 1. 35), that is, no genealogically pure offspring (the reason for marriage) can be produced with them. In *Ant.* 13. 292 Josephus reports that Pharisees asked Hyrcanus to give up his high priesthood because of rumours that his 'mother was a captive in the reign of Antiochus Epiphanes'. The position on marriages with slaves is explicitly stated in *Ant.* 4. 244: 'Let your young men, on reaching the age of wedlock, marry virgins, freeborn and of honest parents... Female slaves must not be taken in marriage by free men, however strongly some may be constrained thereto by love: such passion must be mastered by regard for decorum and the proprieties of rank.' The avoidance of such unions is said to have been in the interest of the children: 'For so only can your children have spirits that are liberal and uprightly set towards virtue, if they are not the issue of dishonorable marriages or of a union resulting from ignoble passion' (*Ant.* 4. 245). The genealogical issue is elevated to a spiritual level here.

Stoic influence with its emphasis on controlling one's passions is also evident in Josephus' description of Pheroras, the brother of Herod. He 'had fallen in love with one of his female slaves and was the victim of his mad passion for this creature and so possessed by it that he scorned the king's daughter, who had been betrothed to him, and gave his thoughts only to the slave girl' (*Ant.* 16. 194–5). Even when Herod suggests that he marry his second daughter, he refuses to do so. His obsession was allegedly so great that he even acted against the better advice of King Ptolemy, who asked him 'to cease dishonouring his brother and to suppress his love, for, he said, it was disgraceful for him to lose his head over a slave girl and thus deprive himself of the king's goodwill' (*ibid.* 197).⁷⁹ Pheroras' case is presented as an example of a weak personality unable to take control of the most basic urges. The implication seems to be that someone who is unable to control himself should certainly not be entrusted with governing a household or larger political entity.⁸⁰

⁷⁹ Cf. Josephus, *Bell.* 1. 483 f.

⁸⁰ The enslavement to one's passions is also a recurrent theme in Philo's works, see e.g. *Leg. all.* 3. 198–9; *Cher.* 71; *De spec. leg.* 4. 91. See Ch. 15 below.

Like Josephus and Roman jurists the rabbis were opposed to marriages with slaves. They did not consider marriages between slaves and freeborn Israelites valid marriages and declared all offspring of slave mothers slaves. According to M. Qid. 3: 14, in legally valid marriages the offspring obtain the status of the father. In cases where a free Israelite has sexual intercourse with a slave woman, however, the union is not considered legally valid and the offspring follow the status of the mother, that is, the children are considered slaves: 'And everyone [every woman] who may not enter into betrothal with this or any other man, the offspring is in her status. And which [case is referred to here]? It is the offspring of a slave woman or a gentile woman' (M. Qid. 3: 12).⁸¹ Y. Qid. 4: 14, 66c transmits a statement attributed to R. Shimon b. Yehudah which says explicitly that neither a gentile nor a slave can validly betroth an Israelite woman. Despite these general principles which declared all marriages between slaves and free Israelites invalid, one option for such unions remained: if the marriage was conducted in the presence and with the permission of the master, it was considered legally valid. In such a case the slave partner would automatically be emancipated, however, so that the resulting marriage would be between a freeborn person and a freed slave (cf. y. Git. 4: 4, 45d).

Tannaitic sources already discuss unions between slave or freed-women, on the one hand, and freeborn Israelites, on the other, in great detail. For example, M. Yeb. 2: 8 rules that someone who had intercourse with a slave woman and she later became free may not marry her, but if he did marry her, 'they do not take [her] away from him'. In the Tosefta this Mishnaic ruling is supplemented by another one which deals with the case of a male slave and a free Israelite woman (T. Yeb. 4: 6). The Tosefta applies the same principle to such unions, that is, if the slave was subsequently emancipated, the free woman may not marry

⁸¹ See also Sifra Behar parashah 6: 6, where a biblical legitimization of this ruling is provided: 'From where [i.e. on what basis] do you say: An Israelite who had sexual relations with his female slave and she gave birth to a son from him is permitted to treat him as a slave? Scripture says: "... whom you may have".' According to a statement attributed to R. Yehudah in Gen. R. 84: 7, 'they despise the children of the female slaves and call them slaves' (par. Gen. R. 87: 3 and y. Peah 1, 15d). Cf. Pes. R. 14: 9: 'Scripture uses "your son" only in speaking of a son born of an Israelite woman; Scripture does not use "your son" but "her son" in speaking of a son born of an idolatress or of a gentile slave woman.'

him, but if the marriage had already taken place, it can be maintained. In these and other rulings unions with a slave are seen in analogy to unions with a gentile: marriages with them are forbidden, but those with freed slaves and proselytes are allowed. Despite the similarities in theory, a practical difference is mentioned, however: 'On what account does everyone exert himself to marry a female proselyte, but no one exerts himself to marry a freed slave woman? Because the female proselyte is assumed to have guarded herself [sexually], but the freed slave woman is [assumed to be in the status of] one who has been freely available [היא היתה בכלל המופקרת] (T. Hor. 2: 11).⁸²

Whereas marriages with slaves were declared invalid by rabbis, sexual relations with them seem to have been taken for granted but were nevertheless viewed with disdain. A few *mishnayot* refer to guilt offerings to be brought by (adult) men who had slept with slave women (cf. M. Ker. 2: 2–4),⁸³ but such punishments would have been difficult to execute after the destruction of the Temple. No new punishments for men who had sex with their female slaves are mentioned by rabbis, on the contrary, they explicitly state that such practice is not to be fined. M. Ket. 3: 1–2 rules that someone who had intercourse with a freed slave woman who was manumitted before she reached the age of 3 years and one day, has to pay a fine; no fine is to be paid, however, if the slave woman was freed after she had reached that age. Since the Mishnah rules that no fine had to be paid in the case of sexual relations with (most) freed slaves, a fine for intercourse with slave women would be an absurd proposition, an issue taken up by the Yerushalmi (cf. y. Ket. 3: 1, 27a). Nevertheless, at least some rabbis seem to have criticized men who gave in to their desires. In connection with Prov. 14: 9 ('A fool proclaims his guilt') Lev. R. 9: 5 transmits a statement attributed to R. Yudan in the name of R. Levi: 'This [verse] refers to men who treat [cohabitation] with female slaves as permitted in this world. The Holy One Blessed Be He will hang them by the hair of the crown of their heads in the future to come.'⁸⁴

⁸² But see Sifra Emor perek 1: 7, 49b–50a, where proselytes and slaves are equated in this regard: "[They shall not marry] a harlot" [Lev 21: 7]—R. Yehudah says: This [refers to] a barren woman. And sages say: A "harlot" is only a female proselyte and a freed slave and one who had illicit sexual relations.'

⁸³ See also Sifra Qedoshim perek 5: 4, 40a.

⁸⁴ This is followed by a quotation of Ps. 68: 22: 'All people shall say: Let this man perish in his guilt! Let this man perish in his guilt!' The text has a parallel in Lev. R. 25: 8.

As in Roman society, the sexual exploitation of slaves by freeborn adult males had to be taken for granted by rabbis.⁸⁵ Although some rabbis may have criticized fellow-Jews who took advantage of the sexual availability of female slaves, what mattered most to both rabbis and Roman jurists was the preservation of family boundaries. With their rulings they tried to protect the free Israelite or Roman status of the offspring of free Israelites or Roman citizens. As quintessential 'others' slaves and gentiles had to be excluded from membership in the genealogically inviolable Jewish family.⁸⁶

In the case of sexual relationships between freeborn women and slaves both ancient public opinion and the law were different from cases where male citizens and slave women were involved. In contrast to the sexual union between freeborn Roman men and slave girls, which was considered perfectly natural and legitimate, 'sex between a female Roman and another's male slave was heinous'.⁸⁷ The inequality between the woman's freeborn status and the slave's (and freedman's) legal inferiority 'threatened the proper hierarchy of male over female and brought disgrace over the woman and her family'.⁸⁸ For Roman satirists the depiction of respectable women involved in 'shameful' relationships with their slaves was a favourite theme.⁸⁹

The above-mentioned legal principle, according to which the child's status follows that of the mother (Gaius, *Inst.* 1. 81), would mean that the offspring of a free woman and a slave would be free. On the other hand, such a child would be considered illegitimate and discriminated against in daily life.⁹⁰ In fact, according to the *Senatus Consultum Claudianum* (52 CE), which was directed against women who had sexual

⁸⁵ See also Satlow, *Jewish Marriage*, 195: 'Greek and Roman slaveowners routinely used their female slaves sexually, and there is some explicit rabbinic evidence that Jewish masters behaved no better.'

⁸⁶ Cf. the further discussion of the issue in y. Ket. 3: 1, 27a.

⁸⁷ Watson, *Slave Law*, 11. On this issue see also Evans-Grubbs, 'Marriage', 125–54; W. Seyfarth, 'Ehen zwischen freien Frauen und Sklaven', in J. Irmscher (ed.), *Byzantinische Beiträge*, vol. 1, Berlin 1964, 41–54; Toru Yoge, 'Die Gesetze im Codex Theodosianus über die eheliche Bindung von freien Frauen mit Sklaven', *Klio*, 64 (1982), 145–50.

⁸⁸ Evans-Grubbs, 'Marriage', 126.

⁸⁹ For references see *ibid.* 126 n. 2: e.g. Petronius, *Sat.* 75. 11; Martial 6. 39, 12. 58; Juvenal 6. 279, 331–2.

⁹⁰ Rawson, 'Family Life', 74. Cf. Evans-Grubbs, 'Marriage', 139: 'Children of unions not considered legal marriages took their status from their mother and therefore a free

intercourse with another person's slave, both the freeborn mother and the child could become slaves of the child's father's owner, if he had warned the woman against cohabitation with his slave three times and she had acted against his advice.⁹¹ Hadrian later ruled that if the owner consented to the union, both the mother and the child would remain free.⁹² While the SC Claudianum remained valid until the time of Justinian, its theoretical and practical application seems to have been limited: it did not deal with the case of women who joined themselves to their own slaves; daughters who were still under the power of their father could not be enslaved, and neither could mothers lose their well-respected status; if the woman was unaware of her partner's slave status, she could not be punished with enslavement.⁹³ Even in instances where the SC Claudianum applied, it may not have been put into practice.⁹⁴ Nevertheless, all sexual unions between free persons and slaves were considered illegitimate, since slaves could not enter legal marriages with anyone, whether slave or free.⁹⁵

If the above-mentioned rule (M. Qid. 3: 12) concerning the status of the offspring of illegitimate unions is applied to children of freeborn Israelite women and slaves, one would assume that such children would be considered freeborn Israelites, like their mother. Yet rabbis held controversial opinions on this issue, as the following Tosefta text indicates:

A gentile and a slave, who had sexual intercourse with an Israelite woman and she gave birth to a son, he is born a *mamzer*. R. Shimon b. Yehudah says in the name of R. Shimon: There is no *mamzer* unless [born] of a woman who is

woman's children by her slave would be freeborn, though illegitimate. See also *ibid.* 135–6, where she refers to a rescript sent by Caracalla to a certain Hostilia, who had apparently married a runaway slave in ignorance (cf. C.J. 5. 18. 3, 215 CE): 'your children are understood to be illegitimate [but] freeborn, as they were born from a free woman but uncertain father'.

⁹¹ See Paul, *Sent.* 2. 21a. 1; C.Th. 4. 12. 2–4, 7. Cf. Gaius, *Inst.* 1. 91. On the SC Claudianum see Evans-Grubbs, 'Marriage', 128; Herrmann-Otto, *Ex Ancilla Natus*, 28–32. It remained legally valid until the time of Justinian.

⁹² Buckland, *Roman Law*, 412 with reference to Gaius 1. 84.

⁹³ Evans-Grubbs, 'Marriage', 136–7.

⁹⁴ *Ibid.* 138: 'This noncompliance with the legal and social rules on mixed-status unions could be unwitting (...) or deliberate...', with examples.

⁹⁵ Only marriages between free Romans were considered *iustae nuptiae*, see Rawson, 'Family Life', 72. See also Watson, *Slave Law*, 77 with reference to Epitome Ulpiani 5. 5: 'With slaves there is no marital capacity.'

prohibited according to the [biblical] prohibition of illegitimate sexual relations, and [those who have sexual relations with such a woman] are liable to extirpation [by God] on her account (T. Qid. 4: 16).

According to the anonymous opinion at the beginning of the text, the child of such a union does not share the free Israelite status of the mother but is considered illegitimate, a *mamzer*. According to the opinion attributed to R. Shimon b. Yehudah in the name of R. Shimon, on the other hand, the child of a free Israelite woman cannot be a *mamzer*, but, one has to conclude, must be considered a free Israelite.⁹⁶ Rabbis' ambiguity over assigning either *mamzer* or freeborn status to such children resembles the Roman practice of considering such children free but illegitimate, 'second-class citizens', as mentioned above.⁹⁷ Rabbis seem to have refrained from the possibility of assigning slave status to such women and their children, though, a possibility which the SC Claudianum indicates.

⁹⁶ See also y. Qid. 3: 14, 64d, discussed by Catherine Hezser, 'The Social Status of Slaves in the Talmud Yerushalmi and in Graeco-Roman Society', in Peter Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 3, Texts and Studies in Ancient Judaism 93, Tübingen 2002, 129, which is similarly ambiguous with regard to assigning either *mamzer* or free Israelite status to the offspring of such a union.

⁹⁷ Cf. Rawson, 'Family Life', 77.

9

Power Relationships

ALTHOUGH slaves constituted a danger for their masters in certain regards, masters retained an ultimate authority over their household dependants. This authority was executed by physically punishing their slaves. The physical violence indicated that masters had unlimited control over their slaves' bodies. The control of slave owners' anger, on the one hand, and the problem of slaves' obedience, on the other, constituted serious issues which were discussed by philosophers (cf. Seneca's *De ira*) and regulated by Roman imperial legislation.¹ The proper and improper punishment of slaves also concerned rabbis, whose suggestions resembled Roman law in some respects but also differed from it in important particulars, especially as far as the master's power over his slave's life and death is concerned.

VIOLATION OF THE BODY

Physical punishment and the violation of one's body were amongst the greatest humiliations a person could suffer in antiquity. They were considered 'an insult to *dignitas*'.² If adult Roman males became subject to physical assaults, the offenders had to pay dearly. Both the physical injury and the infringement of honour were taken into account. Even if the attack caused no physical pain, the insult required compensation.³ It

¹ See William V. Harris, *Restraining Rage: The Ideology of Anger Control in Classical Antiquity*, Cambridge, Mass., and London 2001, 317–36.

² Richard Saller, *Patriarchy, Property, and Death in the Roman Family*, Cambridge, 1994, 134. See also William Fitzgerald, *Slavery and the Roman Literary Imagination*, Cambridge, 2000, 33. Cf. Julian Pitt-Rivers, 'Honour and Social Status', in J. G. Peristiany (ed.), *Honour and Shame*, London 1965, 29: 'The ultimate vindication of honour lies in physical violence...'.
³ See Saller, *Patriarchy*, 135 with reference to *pulsatio* in *Dig.* 47. 10. 5 (Ulpian).

was the improper invasion of one's most intimate private sphere which could not be tolerated, as Georg Simmel has pointed out: 'this sphere cannot be penetrated, unless the personality value of the individual is thereby destroyed. A sphere of this sort is placed around man by his honor. Language poignantly designates an insult to one's honor as "coming too close"; the radius of this sphere marks, as it were, the distance whose trespassing by another person insults one's honor.'⁴

It seems that Palestinian rabbis' attitude toward the violation of the body resembled Roman views in this regard. For rabbis as for Roman jurists the insult to the attacked person's honour played a major role. Y. Ket. 4: 8, 28d transmits the following tradition: 'R. Shimon b. Laqish in the name of R. Yudah b. Chaninah: They voted in Usha concerning one who insults an elder and hits him [that] full [compensation for] his shame shall be given to him.' This rule is followed by the following illustrative story: 'An event concerning someone who insulted an elder and hit [him]. And he gave him full [compensation for] his shame. Some say: It was R. Yudah b. Chaninah.' The combination of halakhic ruling and story has a parallel in y. B.Q. 8: 6, 6c:

[A] Someone said in the name of Resh Laqish: One who puts an elder to shame gives him the full compensation for his shame.

[B] A person insulted R. Yudah b. Chaninah. The case came before Resh Laqish, and he fined him a pound of gold.

In this version the physical assault is not even mentioned but may be implied. The violation of the rabbi's honour is what matters most and is considered to justify the extremely high fine specified here. M. B.Q. 8: 6, which lists the various fines applying to particular injuries, explicitly states that the fines are not only measured according to the type of offence, but according to the dignity of the victim as well:

He who knocks his fellow, gives him a sela. R. Yehudah says in the name of R. Yose the Galilean: A maneh. [If] he slapped him, he gives him two hundred zuz. [If] it was done with the back of his hand, he gives him four hundred zuz. [If] he split his ear, tore his hair, spat [at him] and the spit reached him, pulled off his cloak, uncovered the head of a woman [in the marketplace], he gives four hundred zuz. And everything according to [the person's] dignity.

⁴ Georg Simmel, *The Sociology of Georg Simmel*, ed. K. Wolff, Glencoe 1950, 321, referred to by Saller, *Patriarchy*, 135.

This consciousness of the incursion of a person's honour through physical violation of his or her body stands in line with Roman thinking, as explicated above.

PHYSICAL DISCIPLINE

Beatings and other physical assaults on free Roman citizens were considered such grave crimes because they were commonly associated with slavery: 'One of the primary distinctions between the condition of a free man and a slave in the Roman mind was vulnerability of the latter to corporal punishment, in particular lashings at another man's private whim.'⁵ In both rabbinic and Roman society the physical violation of another person's body was tolerated only when inflicted by the householder, his relatives, or overseers upon those who stood under the *paterfamilias*' authority, namely slaves and minor children. In the case of slaves and minors, physical violence was not only permitted but also considered beneficial as a means of chastising them and teaching them proper discipline and obedience to the householder's regime. Nevertheless, differences between chastising freeborn children and slaves were made, differences which were indicative of their unequal status within the family.⁶

Although no Roman would question the occasional necessity of beating children, physical discipline towards children was valid only as long as it did not humiliate them: 'For elite parents the challenge was to imbue a child with a proper sense of his own *dignitas*...';⁷ 'the child must not be repressed by discipline to the point of servility...'.⁸ Therefore verbal praise and reprimand were recommended by philosophers as preferable to whips as far as children were concerned.⁹ 'The goal of proper appreciation of *dignitas* and use of power sets the discipline of children apart from the coercion of honorless slaves.'¹⁰ In addition, the most severe types of punishment were applied to slaves only; a father who applied them to his children was considered a savage unable to control his anger.¹¹ And self-control was one of the moral

⁵ Saller, *Patriarchy*, 137.

⁶ See *ibid.* 133 with reference to Cicero, *Rep.* 3. 37.

⁷ *Ibid.* 142.

⁸ *Ibid.* 143.

⁹ See *ibid.* 142 with reference to Seneca, *De ira* 2. 21.

¹⁰ *Ibid.* 143. For literary examples see 142–7.

¹¹ See *ibid.* 147–8.

values commonly upheld by the elite. By contrast, the schoolteacher is often depicted as lacking this restraint: “being beaten” became synonymous with “going to school”.¹²

William Harris has pointed out that the notion that masters should control their anger towards slaves first appears in Herodotus’ writings.¹³ It reappears in Aristotle’s *Politics* and Plato’s *Republic*.¹⁴ According to Plato, only the insufficiently educated directs his anger at his slaves. The wise one controls his rage in order not to provoke a negative reaction. At the time of Seneca’s *De ira* and *De clementia*, in the middle of the first century CE, the discussion about the proper treatment of slaves had reached its climax. Seneca writes in a moralistic tone: ‘the principles of equity and right . . . require that mercy should be shown even to captives and purchased slaves’.¹⁵ The focus of these philosophical recommendations was more on the slave owner’s proper control of his emotions than on the welfare of the slave. In the Stoicizing atmosphere of Roman upper-class circles of the first centuries slave owners would not have wanted to appear overtly hot-headed and unrestrained in front of their peers. On the other hand, no one knew how they treated their slaves in private. Human weaknesses may ultimately have been stronger than philosophical theories and ideals.

THE MASTER’S POWER OVER HIS SLAVE

The constant threat of physical punishment signified the slave’s fundamental vulnerability and the master’s power over him. Up to the time of Justinian masters retained the right to kill their slaves. In Justinian’s *Institutes* this right is described as universal:

¹² Jane F. Gardner and Thomas Wiedemann, *The Roman Household: A Sourcebook*, London and New York 1991, 112, with examples. See e.g. Martial 9. 68, where he describes how neighbours are awakened in the early morning by the teacher’s whips and shouts at his students in a nearby schoolroom. A similar allusion is to be found in M. B.B. 2: 3. On this text see Catherine Hezser, “‘Privat’ und ‘öffentlich’ im Talmud Yerushalmi und in der griechisch-römischen Antike”, in Peter Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 1. Texts and Studies in Ancient Judaism 71, Tübingen, 1998, 504–5.

¹³ Harris, *Restraining Rage*, 318, with reference to Herodotus 1. 137.

¹⁴ Aristotle, *Politics* 2. 9 (1269b); cf. 1. 13 (1260b); Plato, *Republic* 8 (548c–549a).

¹⁵ Seneca, *De clem.* 1. 18.1.

Therefore slaves are in the power of their masters. This power indeed comes from the law of nations: for we can see that amongst all nations alike masters have power of life and death over their slaves ... (1. 8. 1).

Roman law constantly vacillated between preserving the master's authority and trying to curtail his cruelty towards slaves. A law of the first century CE stipulated that slaves were not supposed to be handed over to fight against wild beasts.¹⁶ According to an edict of the emperor Claudius, a master who killed his sick or weak slave was 'liable to the charge of murder'.¹⁷ Domitian allegedly 'forbade the castration of males',¹⁸ and Hadrian threatened with capital punishment anyone who castrated a slave, 'even the doctor who did the cutting, and ... a person who gave himself voluntarily for castration'.¹⁹ Watson surmises that the sale of eunuchs was a 'very profitable' practice which was 'not easily eradicated'.²⁰

Antoninus Pius is said to have gone further than his predecessors in his attempt to restrict undue cruelty toward slaves. He ruled that 'whoever kills his slave without cause is to be punished no less than one who kills the slave of another'.²¹ On the other hand, however, the same text explicitly states that masters' power over their slaves should be unlimited. It becomes clear that the reason for the rule was not compassion with the plight of slaves, but the state's interest in masters' reasonable treatment of their property: 'For it is to the advantage of the state that no one use his property badly'.²²

The master's basic rights were reconfirmed by Constantine in 319 CE:

If a master beat a slave with a rod or whip or put him in chains to guard him, and the slave dies, the master need have no fear of prosecution ... He should, of course, not use his right immoderately, but he will be charged with murder only if he killed the slave intentionally ... (C.Th. 9. 12. 1).²³

The recommendation to the master not to use his right 'immoderately' was open to interpretation. The intentional killing of a slave was hard to prove and could easily be denied. Death as the outcome of a slave's

¹⁶ Cf. *Dig.* 48. 8. 11. 1 (Modestinus, book 6 of Rules) quoted in Alan Watson, *Roman Slave Law*, Baltimore and London, 1987, 121; *Dig.* 18. 1. 42 (Marcian, book 1 of Institutes), *ibid.* 122.

¹⁷ Suetonius, *Deified Claudius* 25. 2.

¹⁸ Suetonius, *Domitian* 7. Cf. *Dig.* 48. 8. 6.

¹⁹ *Dig.* 48. 8. 4. 2 (Ulpian, book 7 on the Duty of the Proconsul).

²⁰ Watson, *Slave Law*, 123.

²¹ Cf. Justinian's *Institutes* 1. 8. 2.

²² *Ibid.* ²³ Cf. C.J. 9. 14. 1.

punishment by his master was not prosecuted, however, as a later rescript by Constantine reiterates:

Whenever such change accompanied the beatings of slaves by masters that they die, the masters are free from blame who, while punishing very wicked deeds, wished to obtain better behaviour from their slaves. Nor do we wish an investigation to be made into facts of this kind... whether the punishment was simply inflicted or apparently with the intention of killing the slave. It is our pleasure that masters are not held guilty of murder by reason of the death of a slave, as often as they exercise domestic power by simple punishment (C.Th. 9. 12. 2).

Here even intentional murder is exempted from incurring liability and considered a justifiable form of punishing slaves. Any form of legal investigation into such cases is considered unnecessary, probably because in court the master would have the upper hand anyway. No development towards a more humane attitude to slaves under Christian rulers is visible here.²⁴

JUSTIFICATION OF CORPORAL PUNISHMENT

Texts in the Hebrew Bible resemble Roman notions which justify the necessity of using corporal punishment for slaves. According to Prov. 29: 19, 'a slave cannot be disciplined by words. Though he may comprehend, he does not respond.' This seems to have been a popular proverb which expressed the beliefs of the slave-owning strata of society.²⁵ Like the Roman jurists, the legal authorities of biblical times were caught between, on the one hand, safeguarding the slave owner's rights over his property, and, on the other hand, protecting slaves against overt cruelty by their masters. Exod. 21: 20–1 reflects this tendency: 'When a man strikes his slave, male or female, with a rod, and he dies there and then, he must be avenged. But if he survives a day or two, he is not to be

²⁴ See also Watson, *Slave Law*, 125–6.

²⁵ A similar proverb appears in Ahiqar 83: 'A blow for a slave-boy, a rebuke for a slave-girl, and for all your servants, discipline.' This sentence is preceded by the following recommendation concerning sons (81–2): 'Spare not your son from the rod; otherwise, can you save him [from wickedness]? If I beat you, my son, you will not die; but if I leave you alone, [you will not live].' The suggestion that both children and slaves should be disciplined by lashes is very reminiscent of the Roman attitude described above.

avenged, since he is the other's property.' This ruling suggests that the master does not have the power of life and death over his slave. He is fully justified in punishing him or her severely, however, and if the slave eventually dies of the injuries, the master is not to be held liable. Against this background, the rule following that a master who destroys his slave's eye or knocks out his tooth should manumit him or her immediately (Exod. 21: 26–7) seems overtly lenient. It was probably formulated in order to prevent cruelty against slaves. That masters would actually act accordingly seems highly unlikely.²⁶

Philo seems to consider physical punishment of slaves a self-evident aspect of the slave–master relationship when contrasting slaves with athletes in this regard (cf. *Leg. all.* 3. 201): whereas athletes' task is to defend themselves and to subdue their competitors who strike them, slaves have to submit to their masters' blows. Elsewhere he recommends slaves to act prudently in the presence of their masters: while they are not used to control themselves, fear of their master's rod will certainly restrain them (cf. *De gigantibus* 46). In *De spec. leg.* 3. 195 Philo alludes to Exod. 21: 26–7: masters who knock out their slaves' eye are not to be punished on the basis of the *lex talionis*, since its application in this case would only increase the master's resentment against the slave. He would take revenge and torment the slave throughout his life so that the slave might even commit suicide. The biblical prescription to manumit the slave is considered preferable, since it allegedly punishes the master and rewards the slave twice: the master loses the value and service of the slave; the slave receives freedom and becomes independent of his cruel master (see *ibid.*). These considerations must be considered exegetical, however, and cannot be taken as reflections of actual practice in Philo's times.

RABBINIC REGULATIONS

The issue of injuring and killing slaves is also discussed in the Mishnah and Tosefta, but the solutions offered are rather contradictory and reminiscent of the ambiguities in Roman law mentioned above. M.

²⁶ Bernard Jackson, 'Biblical Laws of Slavery: A Comparative Approach', in Léonie J. Archer (ed.), *Slavery and Other Forms of Unfree Labour*, London and New York 1988, 95–6, suggests that both Exod. 21: 20–1 and 21: 26–7 refer to debt slaves only: 'We can hardly imagine a permanent slave . . . being released because his master has knocked his tooth out' (96).

B.Q. 8: 3 and 8: 5 suggest that a master who injures his own non-Jewish slave is not held liable at all; he is only held liable if he wounded his Jewish slave or the non-Jewish slave belonging to others:

He who wounded a Hebrew slave is liable on all counts, except for loss of time, when he [the slave] was his own. He who wounds a Canaanite slave who belonged to others is liable on all counts. R. Yehudah says: Slaves have no shame [אין לעבדים בשת] (M. B.Q. 8: 3).

He who wounded his Canaanite slave is exempt on all counts (M. B.Q. 8: 5).

The reference to shame in R. Yehudah's statement at the end of the first *mishnah* resembles the Roman emphasis on honour and shame: since slaves have no *dignitas*, they cannot be put to shame through physical assaults against them. Therefore no damages for indignity are paid for them.

According to T. B.Q. 9: 10, on the other hand, a master who injures his non-Jewish slave can very well be prosecuted for this deed:

He who wounds his adult²⁷ son is liable; his male or female Canaanite slave, he is liable on all [counts] but exempt for loss of time, because the loss of time belongs to him [anyway].

T. B.Q. 9: 21 stipulates that he has to pay a fine:

He who wounds his male or female Canaanite slave, when they were by themselves, is exempt [from paying damages to them], since it [the punishment] is a fine [imposed by the court].

The following Toseftan ruling which addresses the killing of a slave by his master is based on Exod. 21: 20:

He who hit his slave, sold him to someone else, and he died [in the new owner's possession], is exempt, for it has been said: 'And he hit him and he died under his hand' [Exod. 21: 20]. [He is not punished] unless hitting him and his death [occurred] in his domain (T. B.Q. 9: 22).

Like the Bible the Tosefta rules that a master who hits his slave so hard that he dies immediately is punishable on that account. The Tosefta extends the master's liability, however, by doing away with the biblical time frame: he is held liable in all cases of physical assault which lead to

²⁷ The Erfurt MS has קטן, 'minor', here.

the slave's death in his domain. As long as the slave is in his ownership, the master is considered responsible for his death. Only when the slave has actually passed into the ownership of another master is the first master released from this obligation.

The biblical ruling that a slave whose eye or tooth was knocked out by his master is to be released, is taken up and discussed in the Mishnah and Tosefta. M. Shebu. 5: 5 deals with the problem of controversial testimony given by the slave and his master. If the master denies that he caused the slave's injuries, he cannot be held liable on the basis of the slave's opposite account. T. B.Q. 9: 26 specifies that the master must have hit the slave's eye and tooth directly, rather than the area of the face next to it, to be considered guilty. In addition, the eye and tooth must be completely damaged in order to affect the slave's manumission (cf. T. B.Q. 9: 27). All of these rulings serve to limit the applicability of the biblical prescription, to prevent the slave from using it as a pretext to gain his freedom.²⁸

The same tendency is recognizable in the Yerushalmi. Y. B.Q. 8: 8, 6c transmits a *baraita* (cf. T. Mak. 1: 4–5) which deals with false witnesses who testify that a master blinded his slave in one eye and knocked out his tooth. The text regulates to whom the witnesses have to pay the damage, to the master or the slave. The possibility that their allegations could be right and the possible consequences of such a situation are not discussed. The ruling may have discouraged witnesses from accusing slave owners of mistreatment of their slaves. One may assume that masters were able to demonstrate quite easily that witnesses' allegations against them were wrong. Therefore criteria to determine the correctness of the testimony had to be found. The Yerushalmi continues:

[A] On the basis of what incident will they [the witnesses] be able to say so?

[B] R. Nisah said: If they say thus: 'We testify upon So-and-So that he entered under his authority whole and came out injured in two [respects].' [In such a case] he [the slave] goes into freedom on account of the first [injury] and he [the master] pays him compensation on account of the second.

²⁸ Mekhilta Neziqin/Mishpatim 9 stipulates that the biblical ruling applies to Hebrew slaves only. In the case of Canaanite slaves the loss of major limbs is necessary as a precondition for the slave's release. The text also explains why the Bible singles out the eye and the tooth: their loss results in permanent bodily blemishes for which there is no substitute.

Both the *baraita* and R. Nisah's statement refer to two injuries inflicted by the master, whereas Exod. 21: 26–7 and a story about R. Gamliel, who allegedly knocked out the tooth of his slave Tabi to set him free, mention only one.²⁹ It seems that in rabbinic times one injury was not considered a sufficient reason for manumission any more, and even in the case of two, slaves will have had great difficulty finding witnesses willing to testify against their master.

The situation was very similar in Roman society. Watson has emphasized that 'slaves had no access to censors or other elected public officials or judges. They had no standing and no legally recognized avenue of approach to anyone in authority. No machinery was created by which their complaints could be heard.'³⁰ If they complained against their masters, the masters could react by treating them even more cruelly. Without witnesses willing to inform against the master no evidence could be obtained.³¹ Fellow slaves were not qualified to give testimony, since only citizens could serve as witnesses. Solidarity amongst citizens and members of the elite would prevent them from informing against each other. Therefore 'it seems impossible to believe that such complaints could ever have been frequent or meaningful'.³²

To conclude, then, it seems that in both Roman and ancient Jewish society physical assaults upon one's body were considered shameful and incompatible with the dignity of a free citizen. As far as slaves (and to some extent children) were concerned, however, beatings and other physical punishments were accepted as effective means of disciplining them. In Roman society the master had the power of life and death over his slave. Although some emperors issued laws against masters' overtly cruel behaviour, the latter could hardly be prosecuted. Rabbis' discussions of the issue were guided by biblical rules which, like Roman law, justify the masters' right to punish his slave for his misbehaviour. Yet, unlike Roman law, biblical and rabbinic law refrain from granting the master an unlimited power of life and death over his slave. Whereas some rabbinic traditions indicate that masters' violent actions against (non-Jewish) slaves seem to have been tolerated by (some) rabbis, others are evidence of an attempt to prevent masters from harming those subjected to them.

²⁹ The story is transmitted in y. Shebu. 5: 7, 36c par. y. Ket. 3: 10, 28a.

³⁰ Watson, *Slave Law*, 117.

³¹ Ibid. 118.

³² Ibid. 117.

Summary

WE may assume that in the Roman Empire of late antiquity domestic slavery was much more common than agricultural slavery, a phenomenon which is reflected in the Jewish literature of the period. Domestic slaves seem to have been employed not only by the most wealthy strata of society but by the middle strata as well. By fulfilling the more trivial tasks of everyday life they provided their masters with leisure time, and they were also considered prestige objects in societies where honour was of utmost importance.

Slaves were members of the Jewish household and the extended family. They fulfilled a variety of functions which ranged from the simple domestic servant who cleaned dishes, fanned his master, and carried his utensils to the bathhouse to the slave nurse and pedagogue and the slave secretary and assistant. The nurse and pedagogue, who are repeatedly mentioned in king parables, took care of their master's children. They seem to have often developed close relationships with the children in their custody but were at the same time—or because of it—considered a potential danger within the household. Slave assistants did business on behalf of their master, administered his estates, and advised him in public and private matters. In general, the nature of the tasks which slaves fulfilled will have depended on the size of the household as well as on the education and training which the slave had received. The slave's function within the household also determined his or her status and relationship to other members of the family.

Women seem to have sometimes brought their own slaves into the marriage. Slaves could be part of the dowry or they could be inherited from the woman's father. During her marriage, the slaves would belong to her husband, but they were probably employed by her. Sometimes solidarity and friendship may have developed between women and their closest handmaids. At other times wives may have competed with slave women for the attentions of their husband. A number of particular

household tasks which female slaves were supposed to perform for women are listed in rabbinic sources. Rabbis were eager to emphasize, however, that even rich women should not be left idle, since idleness might lead to improper behaviour.

Male fears are also expressed in rulings which tried to prevent women from being alone with male slaves. With regard to sexual relationships with slaves a double morality reigned. While men's intercourse with slave women was taken for granted, women's relationships with male slaves were outlawed. Some slaves were forced to work as prostitutes, but all slaves could be subjected to sexual exploitation.

Slave mistresses and concubines are already mentioned in the Bible. The patriarchs are said to have had children with slave women and these children were integrated into the Israelite family. They were viewed positively, as welcome additions to the Israelite household. In contrast to later times, they were considered proper sons and heirs. Things seem to have changed in Hellenistic and Roman times, when householders became more concerned about the division of their (more limited?) property amongst their heirs. Roman jurists and rabbis tried to create clear-cut boundaries between slaves and the free, they tried to protect the Roman and Jewish family, respectively, from alien invasions. Accordingly, both Josephus and the rabbis discouraged relationships between slaves and free people. Like the Roman legal authorities, rabbis declared marriages between a slave and a freeborn Israelite illegitimate. The children of unions between a slave woman and a Jew would be considered slaves and could not threaten the established order of inheritance within the family. The children of male slaves and Israelite women would be considered *mamzerim* or free Israelites, but one may assume that such cases were much rarer.

Child abandonment and the sale of children constituted some of the sources of slaves in antiquity. Abandoned children, who are mentioned both in Jewish inscriptions and literary sources, could be raised as adopted children but would much more likely be used as slaves in the household of the finder or sold as slaves by him. The sale of children was a right of the father in both Roman and Jewish society of late antiquity. In fact, the practice was already taken for granted by the biblical writers. It seems that girls were more likely to be sold than boys. Some rabbis prohibited the sale of boys and others tried to prevent the sale of girls

after puberty. Similarly, Roman authorities tried to limit the sale of children and to make their slave status temporary only.

Relationships between masters and slaves are depicted in an ambiguous way. On the one hand, both Hellenistic Jewish and rabbinic texts transmit ancient prejudices against slaves; they were especially associated with theft and sexual promiscuity by rabbis. They are also frequently shown as involved in plots against their masters, whether by Josephus when describing power struggles within the Herodian family or in rabbinic king parables which feature pedagogues' potentially dangerous role between the king and his son. Josephus and the parables also suggest that slaves were the first ones to be punished, they served as 'fall guys and alibis' due to their intermediate position between the free.

The physical punishment of slaves was an expression of masters' authority. Both the Bible and Roman law justify its use, but unlike Roman law ancient Jewish legal traditions do not grant the master unlimited power of life and death over his slave. When rabbis discussed the issue of masters injuring and killing their (or other people's) slaves, they came up with ambiguous and contradictory solutions. On the one hand, they tried to prevent slaves from using the pretext of physical harm to gain their freedom; on the other hand, they attempted to protect slaves from overt cruelty—a situation Roman jurists had to deal with as well.

Both Philo and the rabbis admonished masters to treat their slaves mildly. In doing so they followed biblical rules but were probably also aware of the more pragmatic ideas expressed by Roman agricultural writers, namely, that the good treatment of slaves would increase their loyalty and efficiency. Midrashic texts which warn against humiliating one's slaves indicate that at least some rabbis saw slaves as fellow human beings and criticized masters' arrogance toward them.

Ideal master-slave stories are transmitted in both Roman and rabbinic writing. In these stories the slaves represent their masters' values, whether exceptional courage or Torah knowledge. In the stories about R. Gamliel and his slave Tabi the latter is presented as a disciple of sages knowledgeable about rabbinic rules. R. Gamliel appears as the ideal slave master willing to liberate his slave immediately. The stories about R. Yudan Nasia and his slave Germana are more similar to the Roman stories in that they emphasize the slave's courage and self-sacrifice on

behalf of his master. Such stories seem to have served to dispel masters' anxieties about the ancient slave–master relationship.

To some extent the stories' portrayal of masters' close relationship with individual slaves may have been based on reality. Funeral inscriptions set up by masters for their deceased slaves or freedmen or by slaves or freedmen for their deceased masters provide testimony of affective bonds which stand in contrast to the abstract and anonymous treatment of slaves in the legal sources. Jewish inscriptions from the Diaspora suggest that if the master was Jewish his (freed) slaves would be buried in a Jewish cemetery, irrespective of their Jewish or non-Jewish origin, a phenomenon which confirms our earlier conclusions concerning slaves' forced adoption of their masters' religion and way of life.

Only a few rabbis are associated with slaves in the literary sources. The number of rabbis said to have owned slaves slightly increases from tannaitic to amoraic times, but altogether it remains low. On the other hand, rabbis' students are depicted in a way which is very reminiscent of slaves. The 'service of sages' allegedly involved tasks which were otherwise performed by slaves in ancient society. One can only hypothesize about the reasons why rabbis portrayed their students in this way. Rabbis, most of whom may have belonged to the middle strata of society and could not afford slaves, may have wanted to present themselves in the image of Roman aristocrats accompanied by a subservient entourage. Yet the portrayal of students in servile roles may have had deeper religious reasons as well. First, it indicates a different attitude towards menial work and humility in Jewish in contrast to Graeco-Roman society. Secondly, it seems to be based on the biblical model of the 'servant of God': just as the biblical patriarchs and monarchs are presented as 'servants of God', rabbinical students are depicted as servants of rabbis who were seen as embodiments of Torah scholarship and the representatives of the word of God.

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PART III
SLAVES AND THE ECONOMY

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THE economic role of slaves and slavery in ancient Jewish society of the first four or five centuries CE is very difficult to assess. Ancient Jewish narrative texts almost exclusively deal with household slaves, as discussed above. Halakhic texts treat various aspects of slavery in general, but are not interested in providing detailed information on slaves' employment in trade, handicrafts, and agriculture. Epigraphical, papyrological, and non-Jewish literary sources are almost completely absent for the subject under discussion here. Therefore the number and percentage of slaves employed in the various economic realms cannot be determined any more. To some extent the conditions in other provinces of the Roman Empire in late antiquity may provide analogies, but one has to reckon with local variations as well.

In all likelihood, slave labour existed alongside other forms of labour in Roman Palestine but was much more limited than in Roman Italy, where slaves may have constituted one-third of the entire population in early imperial times.¹ Roman mass slavery was the result of Rome's expansionist politics which provided the slave markets with large numbers of war captives. The large availability of slaves lowered the slave price and made slave labour affordable and advantageous in various areas of the state economy. In Roman Palestine and Syria the number of slaves offered for sale at local slave markets will have been rather high after the first and second revolt against Rome. By the third and fourth century the slave population may have naturally increased, unless a large number of slaves were manumitted. Other means of obtaining slaves such as the import of slaves from abroad, debt slavery, child exposure, and kidnapping probably continued in late antiquity as well.

Despite the increasing urbanization of Palestine during the first four centuries, the largest sector of the economy remained agricultural. At a time when slave prices were relatively high, slaves would most profitably be employed on large estates, where slave and free labour could be adjusted in accordance with the season and type of terrain.² The employment of slave labour in rural areas of Roman Palestine would therefore be dependent on a number of factors such as the size of the estates, the price of slaves, and the availability of other types of labour.

¹ See Keith Hopkins, *Conquerors and Slaves: Sociological Studies in Roman History*, Cambridge 1978, 9.

² Ibid. 9–10.

In other economic realms which were more town- and city-based skilled slaves such as artisans, scribes, managers, and physicians were needed. In addition, slaves were used as intermediaries in business dealings and would also run businesses on their own. Although the percentage of slaves employed in these sectors cannot be determined, the way in which they are represented in the sources may provide some insights into their socio-economic role.

10

The Sources of Slaves

THE main source of slaves in antiquity was the enslavement of war captives, which accompanied conquest of foreign territories in the course of imperialist policies. Other forms of enslavement such as natural reproduction, debt slavery, child exposure and sale (see above), and the theft of human beings seem to have been less common and dependent on particular socio-economic conditions and behavioural patterns.¹ They will have gained in significance in late antiquity, however, when new war captives became scarce. Slaves would be sold at slave markets but also on other occasions, on the basis of mutual sales agreements between owners. Since the category of the slave was markedly distinct from that of the free person in both Jewish and Roman society, the transition from one mode to the other was legally regulated, so that particular forms of enslavement were prohibited and others allowed. Whether and to what extent these legal limitations were actually followed by the populace is questionable though.

SLAVERY AS A CONSEQUENCE OF IMPERIALIST POLITICS

According to Keith Hopkins, only two 'slave societies' in which slaves constituted more than one-fifth of the population are known from

¹ See especially William V. Harris, 'Towards a Study of the Roman Slave Trade', *Memoirs of the American Academy in Rome*, 36 (1980), 118–25, and idem, 'Demography, Geography and the Sources of Roman Slaves', *Journal of Roman Studies*, 89 (1999), 62–72, against Walter Scheidel, 'Quantifying the Sources of Slaves in the Early Roman Empire', *Journal of Roman Studies*, 87 (1997), 156–69, who argues that natural reproduction had the greatest impact on slave numbers, accounting for more than three-quarters of the slave population.

antiquity: classical Athens and Roman Italy.² Roman Palestine seems to have belonged to the other, 'slave-owning', societies which are distinguished from these. Whether Hopkins's conclusion that this 'implies that in most parts of the Roman empire slavery was of minor importance in production' is correct, may be doubted, though.³ The phenomenon that slave labour was available may have been more significant than the exact proportion of slaves within society. The demographic aspect is only one criterion for estimating the socio-economic impact of slavery on ancient societies. The qualitative impact of slaves, that is, their 'location' within the respective society, is another way of determining their socio-economic role.⁴ Differences between Roman Italy and other Roman provinces will have been gradual rather than clear-cut in this regard. Bradley emphasizes that 'wherever Rome went in the Mediterranean world its representatives either encountered local forms of slave-owning or took with them their own slave-owning practices or both... The result was that geographically as well as chronologically slavery was always an integral element of Roman civilization and experience.'⁵ In Roman Palestine of the first few centuries CE local forms of slavery will have existed. They will have been augmented and transformed in the course of Roman imperialist politics.

The enslavement of large numbers of war captives, together with the increase of large landholdings where these slaves' labour force could be exploited most efficiently, was the main basis of Roman mass slavery in imperial times. Roman conquests during the period of the Roman Empire's expansion greatly increased the number of slaves and made slave labour relatively cheap. Hopkins estimates that by the end of the first century BCE Roman Italy had a slave population of two million out of a total of six million inhabitants.⁶ In the same time period landholdings were reorganized: 'Many small farms were taken over by the rich and amalgamated into larger farms so that slave-gangs could be efficiently supervised and profitably worked.'⁷ The number of small landholdings would decrease and peasants would become impoverished: 'The extrusion of peasants from their plots increased the pool of under-employed free labourers.'⁸ These peasants, who could henceforth work

² Keith Hopkins, *Conquerors and Slaves. Sociological Studies in Roman History*. Cambridge 1978, 99. ³ Ibid.

⁴ See Keith Bradley, *Slavery and Society at Rome*, 3rd edn., Cambridge 1997, 12.

⁵ Ibid. 22.

⁶ Hopkins, *Conquerors*, 102.

⁷ Ibid. 9.

⁸ Ibid.

as day labourers or tenants, would supplement the slave labour available to large estate owners.

Exactly the same constellation of factors which turned Roman Italy into a slave society cannot automatically be assumed for Roman Palestine as well. Nevertheless, it seems that the main causes which increased the number of slaves in Roman Italy, namely conquests in wars and the creation of large estates, were also significant for the development of slavery in Palestine, albeit on a much smaller scale.

The main source of slaves in antiquity was the enslavement of prisoners of war. The enslavement of the enemy was an expression of one's 'perpetual triumph over him'.⁹ Subjection under a foreign political power and enslavement were closely associated in ancient thought. Being subjected to a foreign ruler is often compared to being enslaved. It could also easily lead to enslavement in the literal sense of the word. Both political subjugation and enslavement meant the loss of one's former freedom and independence. This constituted a great humiliation and was much feared at times when one's own political leadership was considered weak.

Such associations and fears are reflected in ancient Jewish writings of Hellenistic and Roman times. The idea that political subjugation and bondage are linked and that only God can bring about liberation is as old as the biblical Exodus story (cf. Exod. 13: 3–4; Deut. 5: 15, 28: 68) and reappears in later apocalyptic writings (cf. Sib. Or. 3: 520–31). As the outcome of Rome's rise to power the Sibylline Oracles predict the imposition of the 'yoke of slavery' on Macedonia, Armenia, Thrace, and other nations (Sib. Or. 4: 87, 102–4, 114; 3: 508).

In the Testament of Judah Israelites are threatened with enslavement by their enemies as God's punishment for their idolatrous behaviour:

In response to this the Lord will bring you famine and plague, death and the sword, punishment by a siege, scattering by enemies like dogs, the scorn of friends, destruction and putrefaction of your eyes, slaughter of infants, the plunder of your sustenance, the rape of your possessions, consumption of God's sanctuary by fire, a desolate land, and yourselves enslaved by the gentiles. And they shall castrate some of you as eunuchs for their wives, until you return to the

⁹ R. H. Barrow, *Slavery in the Roman Empire*, New York and London 1968 (1st pub. 1928), 2.

Lord... Then the Lord... will free you from captivity under your enemies (Test. Jud. 23: 3–5).

This warning may have been written retrospectively and been formulated on the basis of actual experiences with the Roman enslavement of Jewish prisoners during the first revolt against Rome. The reference to the 'consumption of God's sanctuary by fire' may be an allusion to the destruction of the Temple in Jerusalem in 70 CE.¹⁰ All of the most feared consequences of the conquest of one's territory and the population's subjection under the rule of the enemy are listed in much detail here: expulsion from one's native land, the killing and rape of one's family members, and one's own enslavement and castration. That the enemies merely act as God's instrument and that the enslavement serves as a punishment for one's own sins is unlikely to have provided much consolation to those who were actually suffering from such circumstances.¹¹

In the book of Judith it is the capture and enslavement of one's wife and children which is feared most:

They put on sackcloth, they themselves, their wives, their children, their livestock, and every resident foreigner, hired labourer, and slave, and all the inhabitants of Jerusalem, men, women, and children, prostrated themselves in front of the sanctuary and, with ashes on their heads, spread out their sackcloth before the Lord. They draped the altar in sackcloth, and with one voice they earnestly implored the God of Israel not to allow their children to be captured, their wives to be carried off, their ancestral cities to be destroyed, and the Temple to be profaned and dishonoured, to the delight of the heathen. The Lord heard their prayer and pitied their distress (Judith 4: 10–13).

Here, too, salvation from the fate of slavery and subjugation is expected to come from God. Repentance and self-castigation are required of the Israelites as an expression of being conscious of their sins. Although the enslavement of women and children is presented as deplorable here,

¹⁰ It is commonly assumed that the Testaments of the Twelve Patriarchs are of Jewish Hellenistic origin but were subjected to later Jewish and/or Christian editorial revisions, see George W. E. Nickelsburg, *Jewish Literature between the Bible and the Mishnah*, Philadelphia 1981, 234; John J. Collins, *Between Athens and Jerusalem: Jewish Identity in the Hellenistic Diaspora*, New York 1986, 154. This passage does not appear to be explicitly Christian, though. It may be a post-70 CE Jewish interpolation or refer to an earlier assault on the Temple.

¹¹ For the idea that enslavement to one's enemies should be seen as a punishment inflicted by God see also the Lives of the Prophets 1: 13; Test. Naph. 4: 2; Test. Iss. 6: 2.

elsewhere in the book of Judith it is said to be preferable to their death. When the cisterns were running dry at Bethulia and people were fainting from thirst, they allegedly said to their elders: 'Let Holophernes' people and the army sack the town. It is better for us to be taken prisoner; for even as slaves we shall still be alive, and shall not have to watch our babies dying before our eyes, and our wives and children at their last gasp' (Judith 7: 26–7).

The preferableness of subjugation and slavery over death may have been the view of the populace, but it was not shared by Josephus, who contrasts the honour of dying in battle with the humiliation of being enslaved and subjected to one's enemies. At the time of the Roman siege of Jerusalem Castor, a Jewish impostor, asked Titus for mercy, but his compliance with the Romans was only feigned: 'But while five of Castor's ten companions joined in his feigned supplication, the rest cried out that they would never be slaves of the Romans, so long as they might die free men' (*Bell.* 5. 321). The same notion appears in other passages of Josephus' work. Josephus writes, for example, that in 70 CE, in reaction to Titus' orders, 'the Jews retorted by heaping abuse from the ramparts upon Caesar himself, and his father, crying out that they scorned death, which they honourably preferred to slavery' (*Bell.* 5. 458). That the preference of death over slavery is the heroic response to the threat posed by the Romans becomes evident from Josephus' formulation of Eleazar's two speeches at Massada, encouraging his fellow-rebels to choose self-destruction over enslavement:

[Eleazar's first speech] Long since, my brave men, we determined neither to serve the Romans nor any other save God, for he alone is man's true and righteous Lord . . . At this crisis let us not disgrace ourselves; we who in the past refused to submit even to a slavery involving no peril, let us not now, along with slavery, deliberately accept the irreparable penalties awaiting us if we are to fall alive into Roman hands . . . Moreover, I believe that it is God who has granted us this favour, that we have it in our power to die nobly and in freedom—a privilege denied to others who have met with unexpected defeat (*Bell.* 7. 324–25). Let our wives thus die undishonoured, our children unacquainted with slavery; and, when they are gone, let us render a generous service to each other, preserving our liberty as a noble winding-sheet (334) . . . in keeping with our initial resolve, we preferred death to slavery (336).

[Eleazar's second speech] . . . let us hasten to die honourably; let us have pity on ourselves, our children and our wives, while it is still in our power to find pity

from ourselves. For we were born for death, we and those whom we have begotten; and this even the fortunate cannot escape. But outrage and servitude and the sight of our wives being led to shame with their children—these are not necessary evils imposed by nature on mankind, but befall, through their own cowardice, those who, having the chance of forestalling them by death, refuse to take it . . . Unenslaved by the foe let us die, as free men with our children and wives let us quit this life together! . . . The need for this is of God's sending, the reverse of this is the Romans' desire, and their fear is lest a single one of us should die before capture (*Bell.* 7. 382).

The notion that slavery is incompatible with Jewish monotheism and that it is always self-imposed, based on a conscious decision to become subjected to another master, is very reminiscent of rabbinic ideas (see above). That death rather than slavery is the natural fate which every human being must eventually face is further brought forth as an argument against submission to the Romans here. Those who submit to slavery do so out of their own weakness and fear of death. God, on the other hand, gave Eleazar and his group a choice and would want them to die a noble death rather than end up in servitude. It is clear, though, that even Josephus thought that Eleazar had to make repeated efforts to convince his compatriots and to make them accept the collective suicide he had in mind for them.

That the populace preferred enslavement by one's enemies to death becomes evident in *Antiquities*, where Josephus presents his retelling of the Esther story:

She [Esther] began to lament the danger in which her people were placed and said that she had been marked for destruction together with her nation, and for this reason she was addressing him on these matters; for, she added, she would not have troubled him, if he had ordered them to be sold into bitter slavery—that would be an endurable evil—and she begged to be delivered from this fate (*Ant.* 11. 263).

This is Josephus' interpretation of Esther 7: 4 ('For we have been sold, my people and I, to be destroyed, massacred, and exterminated. Had we only been sold as bondmen and bondwomen, I would have kept silent . . .'). The view of slavery as 'an endurable evil', preferable over death, stands in opposition to the heroic notion of a noble death, represented by the rebel leaders, exemplified above. That this notion is put into the mouth of a woman is probably not accidental and may

point to Josephus' construction of a gender contrast in this regard: whereas men defended the *honour* of their family, women were most interested in preserving their family members' *life*.

Jews were not only the victims of capture in war and enslavement but also took war captives themselves during the conquests of the Hasmonean kings and in the Herodian wars.¹² According to Josephus, John Hyrcanus and his sons captured various cities and towns in Syria, Idumaea, and Samaria (cf. *Bell.* 1. 2. 6–7, 63–5). In the case of Sebaste, Josephus expressly states that 'they confined its people within the walls, captured the town, razed it to the ground, and reduced the inhabitants to slavery [τοὺς ἐνοικοῦντας ἐξηδραποδίσαντο]'. Some time later Alexander Jannaeus is said to have captured the coastal cities Gaza, Raphia, and Anthedon and to have reduced their inhabitants to servitude (*Bell.* 1. 4. 2–3, 87–8: ἐξανδραποδισαμένῳ δέ ταύτας). He also attacked Arabia, where he 'subdued the people of Galaad and Moab and imposed tribute upon them' (*Bell.* 1. 4. 3, 89). When some of his Jewish subjects rose against him, he allegedly killed thousands and drove the rest to the town of Bemeselis (*Bell.* 1. 4. 6, 96): 'having subdued this town, he brought them up to Jerusalem as prisoners [αἰχμαλῶντοὺς ἀνήγαγεν εἰς Ἱεροσόλυμα]'. In Jerusalem, he is said to have crucified eight hundred of them and watched the spectacle while feasting with his concubines (ibid. 97).¹³ His later successes in capturing various cities in Transjordan allegedly made the populace forget his former cruelties (cf. *Ant.* 13. 15. 3, 393–4). Some time later, during the Herodian wars of the second half of the first century BCE, prisoners of war were taken among the Arab population.¹⁴

Josephus does not always specify what happened to the cities and territories conquered by the Hasmonians. Sometimes the inhabitants are said to have been forced to become circumcised if they were male, and to adopt Judaism.¹⁵ Those who refused were probably expelled or

¹² See also Ephraim E. Urbach, 'The Laws Regarding Slavery as a Source for Social History of the Period of the Second Temple, the Mishnah and Talmud', in J. G. Weiss (ed.), *Papers of the Institute of Jewish Studies, University College London*, vol. 1, Jerusalem 1964, 31.

¹³ Cf. *Ant.* 13. 14. 2 (379–80).

¹⁴ Cf. *Bell.* 1. 19. 4 (376).

¹⁵ See e.g. *Ant.* 13. 15. 4 (397): Alexander's men demolished Pella, because the inhabitants refused to become proselytes; *Ant.* 13. 11. 3 (319): Aristobulus forced the Ituraeans 'to be circumcised and to live in accordance with the laws of the Jews', if they wanted to remain in their territory which he had conquered; a similar practice is ascribed

killed or enslaved. This seems to have been the general fate of the population of the conquered places: 'Prisoners of war, and the population of pagan cities which had either been forced into fight or forcibly ejected when their homes were captured by John Hyrcanus or Alexander Jannaeus, constituted a source of supply for the slave-market.'¹⁶ The exact quantity of enslaved prisoners cannot be determined, but one may assume that it was quite high. The slaves would have belonged to the respective ruler, who would use some of them on his own estates and in his household. He would probably also give slaves as gifts to his loyal military leaders and friends, and commission his subordinates to sell the remainder on the slave markets. The proceeds of the sale would go to the royal treasury. Although some of the slaves will have been manumitted in the course of time, the entire number of slaves will nevertheless have increased during the following generations, since the children and grandchildren of the enslaved war captives would automatically be considered slaves as well.

During the various Greek and Roman wars against Judaea, Jewish war captives would have been taken and subjected to slavery. Both Antiochus III and IV are said to have captured and enslaved a part of the inhabitants of Jerusalem. According to Josephus, Antiochus III had later granted them freedom (*Ant.* 12. 3. 3, 144), while a similar act is not reported for his successor.¹⁷ After his conquest of Jerusalem in 63 BCE Pompey turned many Jews into prisoners of war,¹⁸ and in

to John Hyrcanus in *Ant.* 13. 9. 1 (257): he 'captured the Idumaeen cities of Adora and Marisa, and after subduing all the Idumaeans, permitted them to remain in their country so long as they had themselves circumcised and were willing to observe the laws of the Jews'. The Idumaeans allegedly conceded and willingly became Jews. That only men's conversion is specified in these texts is probably due to the fact that the female inhabitants were not given a choice by either the conquerors or the conquered: they became Jewish together with the male inhabitants of the area.

¹⁶ Urbach, 'Laws', 31.

¹⁷ See Hans Volkmann, *Die Massenversklavungen der Einwohner erobelter Städte in der hellenistisch-römischen Zeit*, Wiesbaden 1961, 65, with reference to 1 Macc. 1: 32.

¹⁸ According to Gideon Fuks, 'Where Have All the Freedmen Gone? On an Anomaly in the Jewish Grave-Inscriptions from Rome', *Journal of Jewish Studies*, 36 (1985), 25, the Roman Jewish community grew rapidly as a consequence of the Roman conquest of Palestine by Pompey: 'there is no doubt that the main reason for the community's rapid growth from the late sixties of the first century B.C. onwards, was the influx of thousands of Jews brought by the Romans from Judaea as slaves'. This hypothesis is based on questionable assumptions, though: (1) It implies that the enslaved war captives were allowed to continue practising Judaism, which is very unlikely, see Gideon Bohak, 'Ethnic Continuity in the Jewish Diaspora in Antiquity', in John R. Bartlett (ed.), *Jews*

52–51 BCE Cassius, on his way to Judaea, ‘captured Tarichea, where he reduced thirty thousand Jews to slavery [ἀνδραποδίζεται]’ (*Bell.* 1. 8. 9, 180).¹⁹ Approximately ten years later, when Cassius tried to increase his power in the East, he sold the inhabitants of four cities, namely Gophna, Emmaus, Lydda, and Thamna, into slavery (*Bell.* 1. 11. 2, 222).²⁰ Volkmann points out that after the *pax Augusta* enslavements of Jews by Romans usually happened in reaction to Jewish uprisings only.²¹ For example, in the course of Varus’ campaign in Galilee in 6–4 BCE his military commander Gaius ‘routed all who opposed him, captured and burned the city of Sepphoris and reduced its inhabitants to slavery [τοὺς δ’ἐννοικοῦντας ἀνδραποδίζεται]’ (*Bell.* 2. 5. 1, 68).²² The four thousand Jews ‘libertini generis’ who, according to Tacitus, were ‘shipped to Sardinia and there employed in suppressing brigandage’ (*Annales*, 2. 85. 4) under Tiberius in 19 CE seem to have been (the offspring of) Jewish captives sent to Rome since 63 BCE.²³

Enslavements of Jews by Romans seem to have happened particularly often during the first and second Jewish revolts. In 67 CE, when Titus had captured Japha in Galilee, he allegedly killed all male inhabitants and sold 2,130 women and children as slaves (*Bell.* 3. 7. 31, 303–4). In Tarichea Vespasian executed the old and weak, while the number of those who became slaves is said to have reached more than thirty thousand (*Bell.* 3. 10. 10, 539 ff.). Some of the captives were given to Agrippa, ‘to deal with at his discretion, and the king in his turn sold them’ (*ibid.* 541). Thousands of captives were taken at other localities as well.²⁴ Josephus repeatedly mentions the murder of the old and the sale

in the *Hellenistic and Roman Cities*, London and New York 2002, 191. (2) It assumes that they were manumitted shortly after their arrival in Rome, as maintained by Philo, *Legatio* 23. 155. That Philo’s depiction ‘can hardly be accepted’ has already been noted by Harry J. Leon, *The Jews of Ancient Rome*, Philadelphia 1960, 4–5.

¹⁹ Cf. *Ant.* 14. 7. 3 (120).

²⁰ Cf. *Ant.* 14. 11. 2 (275). They were later liberated by Antonius, cf. *Ant.* 14. 12. 2 (304) and Volkmann, *Massenversklavungen*, 103–4.

²¹ *Ibid.* 68. ²² Cf. *Ant.* 17. 10. 9 (289).

²³ On this text see Menahem Stern (ed.), *Greek and Latin Authors on Jews and Judaism*, vol. 2: *From Tacitus to Simplicius*, Jerusalem 1980, 68–73. Cf. Josephus, *Ant.* 18. 84: four thousand Roman Jews sent to Sardinia. Leon, *Jews*, 19 n. 2, notes: ‘It is not impossible, however, that the phrase *libertinum genus* may refer to freedman stock rather than to actual freedmen’.

²⁴ For references see Volkmann, *Massenversklavungen*, 69.

of women and children, whereas particularly strong and healthy young men were allegedly chosen and sent to work on large projects.²⁵ Whether the Romans actually did act according to this scheme or whether it is a literary construction on the part of Josephus remains an open question.²⁶

Similarly uncertain is the historical reliability of the numbers Josephus gives. In *Bellum* he states that 'the total number of prisoners taken throughout the entire war amounted to ninety-seven thousand' (*Bell.* 6. 9. 3, 420). The large majority of them will have been sold as slaves. Even if Josephus' numbers are not trustworthy, it is likely that the number of Jews enslaved by the Romans during the first Jewish revolt will have amounted to tens of thousands of individuals.

About the number of Jewish captives taken during the Bar Kokhba revolt little direct evidence exists. Jerome notes, however, that innumerable captives of different ages and both genders were sold at a slave market near Hebron.²⁷ Those who were not sold there were sent to the fair at Gaza or to Egypt. According to the *Chronicon Paschale*, the price of Jewish slaves became very low at that time due to their large availability.²⁸ These references led Fuks to the assumption that not all Jews enslaved by the Romans were sent to Rome and Italy. Rather, 'on a number of occasions we are led to suppose that Jews were sold into slavery in the markets of non-Jewish Palestine or in those of Syria and especially Egypt'.²⁹ Harris similarly maintains that Roman war captives would often not be sent to Rome but end up 'in distant provinces near their countries of origin'.³⁰ How many Jews enslaved by the Romans remained in or returned to Palestine is impossible to determine.

²⁵ Enslavement of women and children: *Bell.* 4. 9. 1, 488 (Gerasa); *Bell.* 7. 6. 4, 208 (Machairous). Young men sent to work on projects: *Bell.* 3. 10. 10, 540 (6,000 young men sent to work on Nero's channel project in Corinth); *Bell.* 6. 9. 2, 418 (youths who are over 17 years old sent to work in the mines of Egypt).

²⁶ A very similar scheme appears in the writings of Greek historians such as Thucydides' history of the Peloponnesian War: e.g. the Athenians are said to have killed the adult citizens of Mytilene and enslaved its women and children (3. 36–49, cf. 5. 116), see Page DuBois, *Slaves and Other Objects*, Chicago and London 2003, 126.

²⁷ Jerome, *Ad Jer.* 31. 15. 6, referred to by Volkmann, *Massenversklavungen*, 184.

²⁸ *Chronicon Paschale*, vol. 1, p. 474 (ed. Dindorf). Harris, 'Study', 122 assumes that the total number of Jewish war captives taken at that time 'must have been far in excess of 100,000'.

²⁹ Fuks, 'Freedmen', 27.

³⁰ Harris, 'Study', 122.

One can imagine that some of the Jews enslaved by the Romans would eventually become the slaves of Jewish owners. Perhaps Jews like Josephus who expressed their loyalty toward the Romans would not only be rewarded with land but with slaves as well. Some Jewish loyalists were not only able to keep their landholdings but to enlarge them considerably. After the war they could purchase, or were rewarded with, plots which their fellow-Jews had lost or abandoned. The Romans would refrain from confiscating the property of their loyal subjects and 'bestowed land on whomever they felt deserving'.³¹ In addition, 'some of the land was purchased by Jews who were Roman sympathizers'.³² Some of these Jewish estate owners were able to amass numerous plots of land. Although some of the formerly Jewish land was owned by gentiles after the revolts, 'there is considerable evidence that large areas of the country remained the private property of Jews'.³³

Although the capture and subsequent enslavement of prisoners of war was the most common form of enslavement of freeborn persons in the Roman Empire, Alan Watson points out that 'very few legal texts mention enslavement by capture'.³⁴ This was probably due to the fact that the enslavement of prisoners of war was considered a common practice of all ancient societies, which simply had to be taken for granted, as *Dig.* 1. 5. 5. 1 indicates: 'those slaves are ours by the law of nations who are captured from the enemy or who are the offspring of our female slaves'.³⁵ The slaves acquired in this way would belong to the respective state or emperor, not to the individual soldiers and army

³¹ Jack Pastor, *Land and Economy in Ancient Palestine*, London and New York 1977, 161.

³² Ibid. 162. See also Benjamin Isaac, *The Near East under Roman Rule: Selected Papers*, Leiden 1998, 117: 'Titus promised prominent Jewish refugees from Jerusalem to restore to them their property after the war. . . . While the property of those condemned for participation in the revolt was undoubtedly confiscated, this was not taken up by the treasury, but sold again. It could then be bought by Jews and gentiles.'

³³ Pastor, *Land*, 163.

³⁴ Alan Watson, *Roman Slave Law*, Baltimore and London 1987, 19. But see the discussion of legal rulings concerning *captivi* in William W. Buckland, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge 1970 (1st pub. 1908), 291–317.

³⁵ On the enslavement of war captives see also *Dig.* 1. 5. 4. 2 (Florentinus: 'generals have a custom of selling their prisoners and thereby *preserving* rather than killing them. . . .'), and Justinian's *Institutes* 1. 3. 3 ('Slaves, in Latin "servi", are so called because it is the practice of army commanders to order captives to be sold and thus saved—"save" in Latin is "servare"—instead of killed').

generals who had captured them. The capture and enslavement of free persons by other individuals was considered robbery.³⁶

A captured person would lose his or her former legal status, that is, a Roman captured by the enemy would cease to be a Roman citizen, as the following text by Ulpian suggests: 'In every branch of the law a person who fails to return from enemy hands is regarded as having died at the moment when he was captured' (*Dig.* 49. 15. 18, Ulpian, book 35 on Sabinus).³⁷ Watson notes, however, that there was 'always the possibility that a captured Roman might return, and if he did so and if his capture and release were without loss of honor, then he might recover his former status by *postliminium*'.³⁸ The laws on this issue seem to have been very complex and complicated: 'the prisoner's rights during his captivity and on his return varied according to the subject'.³⁹ The precondition of regaining one's citizenship by *postliminium* was the captive's permanent 'return within the boundaries of the State'.⁴⁰

The Mishnah also addresses the issue of the status of a redeemed and returning captive:

A slave who was taken captive and they [others] redeemed him, if as a slave [they redeemed him], he shall remain a slave [that is, he must be returned to his former master]; if as a free person [that is, if he was a free person when captured], he shall not become a slave again. R. Shimon b. Gamliel says: In either case he shall remain a slave (M. Git. 4: 4).

According to the anonymous opinion cited at the beginning of this Mishnah, the captive returns to his former status, as was also possible according to Roman law under particular circumstances. R. Shimon b. Gamliel's opinion is more stringent, though: he ascribes slave status even to a redeemed captive who was a free person before his capture, that is, the capture would have changed his status for good. After his redemption he would probably automatically become the slave of the second master, the one who paid the redemption price. The Erfurt manuscript version of the Tosefta parallel (T. Git. 4: 2) attributes the

³⁶ See *Dig.* 49. 15. 24; C.J. 7. 14. 4.

³⁷ Quoted in Watson, *Slave Law*, 21.

³⁸ Ibid. See also Alan Watson, *Roman Private Law around 200 BC*, Edinburgh 1971, 56–7. On *postliminium* see also Buckland, *Roman Law*, 292 and 304–17; L. Amirante, *Captivitas e Postliminium*, Naples 1950, 32–40.

³⁹ Watson, *Slave Law*, 21.

⁴⁰ Alan Watson, *Roman Private Law around 200 B. C.* Edinburgh, 1971, 56.

⁴¹ Saul Lieberman, *Tosefta Ki-fshutah*, vol. 8, New York 1973, 831.

opposite view to R. Shimon b. Gamliel: 'In either case he does not become a slave again'. In view of the continuation of the Tosefta, however (he is returned to his master, 'and his master gives [money according to] his value'), this version is considered erroneous by Lieberman.⁴¹ The Tosefta adds at the end that 'just as Israelites are commanded to redeem free persons, they are commanded to redeem their slaves', emphasizing that the captives should be redeemed but returned to their former free or enslaved status. The redemption of the slave would benefit his former master then, who would, however, have to repay the redemption price.⁴² The text shows that rabbinic *halakhah* was as ambiguous as Roman law on the question of redeemed captives' status. Both legal traditions seem to have tried to maintain the status quo, but in the case of the captive it was difficult to determine what the status quo was.⁴³

THE SOCIO-ECONOMIC BASIS OF ENSLAVEMENT

The enslavement of prisoners of war was, of course, not the only way to become a slave. Slavery had not only a political but also an economic basis. In antiquity economic hardships often forced the poor to sell themselves or their children as slaves or to expose newborn babies, who would usually become the slaves of those who found and reared them.⁴⁴ Those who enslaved themselves and/or their family members voluntarily probably thought that 'a sheltered and tolerable slavery may be preferable to a precarious existence in freedom and poverty'.⁴⁵

Roman law generally prohibited even temporary self-sale,⁴⁶ but the law seems to have provided a loophole by which self-sale (disguised as sale by another person) was possible as long as it was permanent and did not disadvantage the buyer. According to a text from Marcian's first

⁴² For a story which exemplifies the redemption of a formerly free person who had been taken captive by the Romans see T. Hor. 2: 5–6.

⁴³ See also the discussion of the issue in y. Git. 4: 4, 45d.

⁴⁴ On the sale and abandonment of children see Ch. 6 and 8 above.

⁴⁵ Barrow, *Slavery*, 2.

⁴⁶ Ibid. 12. Cf. *Dig.* 40. 12. 37: 'A private pact cannot make a man anyone's slave or freedman' (Callistratus, Questions, book 2).

book of *Institutes*, whose continuation dealing with war captives has already been mentioned above, 'slaves are reduced to our ownership by civil law or by the law of nations:⁴⁷ by civil law if a person more than twenty years old allows himself to be sold to share in the price . . .' (*Dig.* 1. 5. 5. 1).⁴⁸ Buckland notes that the sold freeman's share in the purchase price was essential with regard to disabling him from reclaiming his liberty.⁴⁹ In addition, 'it is essential also that the buyer have been deceived: if he knew, then there is no bar to the claim of liberty'.⁵⁰

Rabbis, who shared Roman jurists' general prohibition of self-sale, seem to have openly allowed such actions under particular circumstances, as T. Ar. 5: 8 indicates: one is not allowed to sell oneself and to purchase cattle, utensils, or slaves from the proceeds, except for a poor person, who is allowed to do so. The special permission of self-sale as far as the poor are concerned seems to be based on biblical law (cf. Lev. 25: 39).⁵¹ According to biblical law, the status of the Hebrew slave was temporary, however. Ideally, Hebrew slaves were to be released in the seventh (cf. Exod. 21: 2) and/or Jubilee year (cf. Lev. 25: 40). The Tosefta, on the other hand, rules that the poor person who sold himself must henceforth remain in the status of a slave: 'and if he sold [himself], behold, this one is sold' (continuation of T. Ar. 5: 8). It seems, then, that the rabbinic authors of this rule employed a mechanism to prevent possible fraud against the purchaser which was similar to Marcian's ruling quoted above: once a free person had agreed to be sold or to

⁴⁷ Watson, *Slave Law*, 8 assumes that what is called 'civil law' here was a specifically Roman regulation, whereas the 'law of nations' was believed to be shared with other ethnic groups.

⁴⁸ This regulation served to prevent fraud against the purchaser, see *ibid.* 9. An adult who allowed himself to be sold as a slave and collected part of the purchase money would remain the slave of the purchaser, i.e. the sale could not be presented as the fraudulent sale of a free person later on. See also *Dig.* 4. 4. 9. 4 (Ulpian) and the passages listed in Buckland, *Roman Law*, 428 n. 1.

⁴⁹ Buckland, *Roman Law*, 428.

⁵⁰ *Ibid.*

⁵¹ See the parallel to the Tosefta text in Sifra Behar pereq 7: 1 ff. (80a), where the biblical basis of the rule is made explicit: 'From where [do we know] that a person is not permitted to sell himself and to leave [the proceeds of the sale] in his money bag, or to purchase for himself utensils, or to purchase for himself a house, unless he is a poor person? Scripture says: "And if he becomes poor and sells himself" [Lev. 25: 39]—behold, he does not sell himself unless he is a poor person.' According to Mekh. Neziqin/Mishpatim 3, the permission to sell themselves applied to poor men only, excluding women—probably for moral reasons.

sell himself into slavery and had received a certain amount of money, he remained the slave of the purchaser and had lost his original freedom.

Debt slavery for a temporary period, until the debt had been paid off, was prohibited together with other temporary forms of slavery in Roman law,⁵² but seems to have been practised in ancient Palestine, perhaps with the permission of the local authorities, as biblical, Jewish Hellenistic, and rabbinic texts indicate.⁵³ A person unable to pay his debts could be seized by the creditor and forced to work for him until his debts had been paid off.

This form of debt slavery is already well known in the Hebrew Bible. According to 2 Kgs. 4: 1, for example, 'a certain woman, the wife of one of the disciples of the prophets, cried out to Elisha: "Your servant, my husband, is dead, and you know how your servant revered the Lord. And now a creditor is coming to seize my two children as slaves."' In reaction to this lament Elisha is said to have performed a miracle with oil, so that the woman would be able to sell the oil and pay off her debts (cf. v. 7). Debt slavery is also repeatedly mentioned in Proverbs (cf. 22: 7: 'the debtor is slave to the lender') and prophetic texts. In Isa. 50: 1 the image of debt slavery is used metaphorically, when God says to Israel: 'And which of my creditors was it to whom I sold you off?' Elsewhere, in Amos 2: 6, wealthy Israelites are criticized for subjecting their poor brethren to debt slavery: 'Thus said the Lord: For three transgressions of Israel, for four, I will not revoke it: Because they have sold for silver those whose cause was just, and the needy for a pair of sandals.' A similar situation is envisioned in Neh. 5: 1–5: 'There was a great outcry by the common folk and their wives against their brother Jews . . . Now we are as good as our brothers, and our children as good as theirs; yet here we are subjecting our sons and daughters to slavery—some of our daughters are already subjected—and we are powerless, while our fields and vineyards belong to others.'

Debt slavery seems to have continued in the Second Temple period. In his retelling of the story about the prophet Elisha and the widow,

⁵² Thomas E. J. Wiedemann, *Greek and Roman Slavery*, London 1981, 40: Debt slavery seems to have been abolished by the Romans in the 4th cent. BCE. It seems to have been legal at the time of the Twelve Tables, though, see *ibid.* 39 with reference to Aulus Gellius, *Attic Nights* 20. 1.

⁵³ See also Barrow, *Slavery*, 12: 'it is probable that in the provinces, particularly in the East, self-sale, whether forbidden or not, did exist . . . '.

Josephus aggravates the situation: 'Now, after her husband's death, both she and her children were being taken away into slavery by her creditors . . .' (*Ant.* 9. 47). Josephus stresses that with the oil miracle 'Elisha freed the woman of her debt and delivered her from the harsh treatment of her creditors' (*ibid.*). In all likelihood, Josephus did not merely paraphrase the biblical text but was familiar with such dire conditions in which the poor might find themselves. Philo similarly mentions debt slavery in connection with biblical texts, namely the law of the release of Hebrew slaves in the seventh year. Like Josephus he seems to have written his account against the background of contemporary circumstances. It is obvious that Philo knew that the creditor could seize his debtor and his family in the case of unpaid loans, when writing:

As for the debtors, who through temporary loans have sunk into bearing both the name and the painfulness which their cruel situation entails, and those whom a more imperious compulsion has brought from freedom into slavery, he [Moses] would not allow them to remain forever in their evil plight, but gave them total remission in the seventh year . . . (*De virtutibus* 122).

He emphasizes that the enslavement of debtors 'who were not born to slavery' but originally free is due to 'adverse circumstances', that is, the political and economic situation which made them lose their property (*cf. ibid.*). They should be released as soon as they had paid off their debt and not be charged more than they initially owed the creditor (*see De spec. leg.* 2. 122).

A sapiential text from Qumran warns against submitting oneself to debt slavery: '[Do not se]ll yourself for a prize. It is good for you to become a slave in spirit, and to serve your oppressors freely [?]. But for [no] price [s]ell your glory. . . .'⁵⁴ About the literary work in which this instruction appears the editors write that it must have been important for the Qumran community since many copies of it circulated.⁵⁵ It could not have originated in Qumran, though, 'or [been] directly related to the Qumran group'.⁵⁶ The manuscript is written in the Herodian script of the late first century BCE. Since the Qumran group

⁵⁴ 4Q416, fr. 2ii, lines 17–17, published in John Strugnell and Daniel J. Harrington (eds.), *Qumran Cave 4: Sapiential Texts*, part 2: *4Q Instruction (Musal le Mevin): 4Q415ff*, Discoveries in the Judaean Desert 34, Oxford 1999.

⁵⁵ See *ibid.* 2 and 7: at least seven manuscripts of the text are known.

⁵⁶ *Ibid.* 21.

itself is believed to have abstained from slavery altogether and formed an exception in this regard.⁵⁷ Strugnell and Harrington suggest that the text may provide 'evidence for the existence of that wider non-"monastic" branch of the Essene movement mentioned by Josephus; it could have provided guidance for those affiliated members who were thoroughly integrated into non-cenobitic Jewish society, more so than were those who lived at Qumran'.⁵⁸ That at least some members or affiliates of the Qumran group possessed slaves is also indicated by fragments of the Damascus Document providing instructions for slave owners.⁵⁹ What is interesting about the sapiential text above is that it addresses poor debtors rather than rich slave holders. Whether the suggestion to become a 'slave in spirit' is to be understood in analogy with the Stoics' and Philo's emphasis on spiritual slavery remains uncertain. The emphasis on the 'glory' of the human body (as a temple of God?) is reminiscent of the biblical depiction of human beings created in the image of God (cf. Gen. 1: 27).⁶⁰ Selling oneself into slavery would be presented as sinful here. This presentation would be in harmony with Philo's and Josephus' testimony that the Essenes considered slavery as incompatible with human nature (Philo), contributing to injustice and oppression within society (Josephus).

⁵⁷ See Philo, *De vita contemplativa* 70; idem, *Quod omnis probus*, 12. 79; Josephus, *Ant.* 18. 21.

⁵⁸ Strugnell and Harrington, *Qumran Cave 4*, 21. Other possible explanations are provided as well: the work may have originated in the pre-Qumranite foundational period of the movement in the 3rd to 2nd cent. BCE; it may not have originated with the Qumran sect or its affiliates, 'but rather was a general offshoot of Jewish wisdom, of uncertain date and not sectarian at all (...)'; see *ibid.* 22. The editors consider this latter possibility the most likely explanation of the phenomenon. This stands in contradiction to their earlier assessment of the work as of great importance and authority for the Qumran group, though.

⁵⁹ See 4Q270, fr. 6v, lines 16–17 ('Let a nurse not carry an infant [to go out or come in on the Sabbath. Let no man contend (?)] with his slave or his maidservant on the Sabbath'), and 4Q271, fr. 5i, lines 7–8 ('Let no man contend with his slave, his maidservant, or his hired man on the Sabbath'), published in Joseph M. Baumgarten and José T. Milik (eds.), *Qumran Cave 4: The Damascus Document (4Q266–73)*, Discoveries in the Judaean Desert 13, Oxford 1996. On these texts see also Valentin Nikiprowetzky, 'Quelques observations sur la répudiation de l'esclavage par les Thérapeutes et les Esséniens d'après les notices de Philon et de Flavius Josèphe', *Mélanges à la mémoire de Marcel-Henri Prévost. Droit biblique—interprétation rabbinique. Communautés et Société*, Paris 1982, 232.

⁶⁰ Strugnell and Harrington, *Qumran Cave 4*, 12 note, however, that the term כבודקה may merely be used as a synonym for נפש, one's self, here.

The rabbis of Roman Palestine were well aware of the practice of debt slavery as well. One may assume that even if they were against the practice, they would not have been able to eliminate it. That debt slavery was practised in the first centuries CE seems to be indicated by certain king parables such as the one transmitted in Sifre Deut. 26:

A parable about one who borrowed from the king a thousand kors of wheat in a year. Everyone was saying: Is it possible that this one can stand with [a debt of] one thousand kors of wheat in a year and the king did not take a pledge from him? Rather, he has [certainly] written him a receipt [for a partial payment].⁶¹ Once he [the king] sent [for payment], but he did not pay him anything. The king entered his house and seized his sons and daughters and put them on the auction block [to sell them as slaves]. At that moment everyone knew that he had nothing in his hand.⁶²

The last sentence may refer to the king or the debtor: either the king had not received a pledge or partial repayment from his debtor; or the debtor did not have a receipt for the partial repayment of his debt and therefore no protection against the seizure and sale of his children; or the debtor was left without anything, without money and his children.⁶³ In any case, the debtor is presented as being in a hopeless situation in which he cannot avoid the sale of his children into slavery to cover his debt.

For ancient listeners and readers the images which the parable uses will have been familiar everyday occurrences. Similar images are used in some of the parables transmitted in the gospels of the New Testament. Matt. 18: 24–34, for example, is a parable about a man who owed someone a thousand talents. In this parable, the outcome is similar to the midrashic tale: ‘His master commanded him to be sold, and his wife and his children and all that he had and payment to be made.’ That the master would eventually have mercy on his debtor and release him from his debt is presented as exceptional here: it is due to the fact that the master serves as an image for God. The parables suggest that wealthy

⁶¹ On the meaning of **אפוכי** see Steven D. Fraade, ‘Sifre Deuteronomy 26 (ad Deut. 3:23): How Conscious the Composition?’, *Hebrew Union College Annual*, 54 (1983), 298–301.

⁶² One has to read **שאין** instead of **שייר** here, see Fraade, ‘Sifre Deuteronomy’, 263 n. 40.

⁶³ Cf. *ibid.* 266 n. 50.

lenders had unrestricted power over the fate of their debtors and their families in cases where the latter were unable to repay their debts.

One reason for the existence of debt slavery in Roman Palestine was the high taxation introduced by the Romans. After Pompey's conquest, Judaea was burdened with the tribute payable to Rome.⁶⁴ In order to be able to pay their dues to the tax collectors, small freeholders would often be forced to mortgage their properties to wealthy owners of large estates. If they were unable to repay their debtors they would eventually become their debt slaves. Besides the burden of heavy taxation, the frequent partition of plots amongst heirs as well as droughts and famines will have contributed to the precarious situation of the rural poor.⁶⁵

Jack Pastor has argued that although the Jewish revolt against Rome 'was not a class war... it did have manifestations of class conflict'.⁶⁶ According to Josephus, some of the rebels put fire to the archives in Jerusalem which contained people's debt records in order to receive the support of the lower strata of society (cf. *Bell.* 2. 17. 6, 427). Josephus also reports that Shimon bar Giora, one of the rebel leaders, 'proclaimed liberty for slaves' (*Bell.* 4. 9. 3, 508). Although Josephus may have presented him as the liberator of slaves in 'an attempt to blacken Simon's image', the latter's resentment against rich landowners may have had a basis in reality.⁶⁷

After the first Jewish revolt much of the land was confiscated or devastated by the Romans. The situation grew worse after 135 CE, when 'most of the country was devastated completely'.⁶⁸ Former landowners were killed or enslaved or left without land and income.⁶⁹ Their families would become impoverished and were left with few alternatives besides hiring themselves out as day labourers or selling themselves and their children as slaves.

The specific economic conditions of Roman Palestine after the revolts seem to have not only increased the supply of slaves but also the need for using them. Wealthy Jewish estate owners who were friendly with the Romans and had been rewarded with or purchased plots which had

⁶⁴ See Pastor, *Land*, 88, with reference to Josephus, *Bell.* 1. 7. 6 (154), *Ant.* 14. 4. 4 (74), and Cicero, *Pro Flacco* 69.

⁶⁵ Joseph H. Heinemann, 'The Status of the Labourer in Jewish Law and Society in the Tannaitic Period', *Hebrew Union College Annual*, 25 (1954), 264–5.

⁶⁶ Pastor, *Land*, 157.

⁶⁷ *Ibid.* 158.

⁶⁸ Heinemann, 'Status', 265.

⁶⁹ See Pastor, *Land*, 160.

formerly belonged to their rebellious fellow-Jews are likely to have used this opportunity to acquire slaves for themselves and to employ them on their enlarged estates, perhaps alongside day labourers and tenants.⁷⁰ Some of them may have even regarded the enslavement of their fellow-Jews as a just punishment for their rebellion against the Romans. In addition, some of these wealthy landlords' debtors may have become their debt slaves, and extreme poverty may have forced some former smallholders to sell themselves or their children into slavery. Economic reasons may have prevailed over solidarity with one's co-religionists: landlords probably bought whomever they considered best value, irrespective of the slave's Jewish or gentile origin. It is likely that the supply of Jewish slaves was much larger than that of gentile slaves in Roman Palestine of the late first and second century CE. The rabbinic idea that a slave was no longer to be considered a proper Jew in the sense of having Jewish ancestors and God as his only master will have made it easier for slave owners to treat their slaves as tools who could be exploited for one's own benefit.

A particular form of debt slavery was the enslavement of thieves who were unable to return or make restitution for what they had stolen. In Roman law the enslavement of thieves 'across the Tiber' is mentioned in the Twelve Tables of the mid-fifth century BCE,⁷¹ but, according to Watson, 'there is no evidence that this provision of the Twelve Tables was ever used'.⁷² It seems to have died out at an early time,⁷³ probably because, for political reasons, Roman authorities tried to abstain from enslaving free Roman citizens. Later only capital crimes could be punished by reducing the convicted person to penal slavery.⁷⁴

Josephus mentions that Herod introduced a law similar to that of the Twelve Tables in Palestine, namely that 'housebreakers should be sold [into slavery] and deported from the kingdom' (*Ant.* 16. 1–3), a measure which Josephus criticizes, since the sale of Jews to gentiles

⁷⁰ That tenant and slave labour were sometimes combined has also been noted by Harris, 'Study', 117. For combinations of various types of labour in the later Roman Empire see also C. R. Whittaker, 'Circe's Pigs: From Slavery to Serfdom in the Later Roman World', in Moses I. Finley (ed.), *Classical Slavery*, London 1987, 94.

⁷¹ See Gaius, *Inst.* 3. 189. On this text see Buckland, *Roman Law*, 401.

⁷² Watson, *Slave Law*, 16.

⁷³ Buckland, *Roman Law*, 401: 'But the whole rule fell into disuse when the Praetor introduced the fourfold penalty.'

⁷⁴ See *ibid.* 403. For the usual forms of penal slavery see *ibid.* 403.

allegedly collided with the Torah (see *ibid.*). The sale of a thief to fellow-Jews within the land of Israel and his release in the seventh year, in case he was unable to repay an amount four or five times the value of the stolen property, is seen as in harmony with biblical legislation, though (see Exod. 22: 1–2).⁷⁵

The thief's enslavement by a fellow-Jew whose property he had stolen seems to have also been considered legitimate by rabbis. The Mekhilta transmits a discussion between R. Yehudah and R. Eliezer on this issue.⁷⁶ According to R. Yehudah, the owner of the stolen article has the right to sell the thief as a slave, if the stolen article was worth at least as much as the thief himself, and the thief could not repay it. Otherwise, if it was worth less, he is not sold. In this latter case R. Eliezer agrees with R. Yehudah. He maintains, however, that if the stolen property was worth more than the thief himself, and the thief can repay half of the value he has stolen, the owner should be satisfied and not enslave the offender: he loses half of his property, but the retaining of the other half should suffice him. According to R. Eliezer's more lenient opinion, the freedom of the thief is more important than the owner's recovery of the total value of his property then. Although the rabbis seem to have permitted the enslavement of thieves under certain circumstances, their rulings are much more lenient than the biblical laws, since they limit their applicability. If the thief is able to repay the full amount of the stolen object (R. Yehudah), or even only half of it (R. Eliezer), he is not to be sold.

BANDITRY AND THE THEFT OF HUMAN BEINGS

In ancient times travelling was always an adventure because of the many dangers which the traveller might encounter on his or her way. One of these dangers was the organized kidnapping of travellers by robbers,

⁷⁵ See also Josephus, *Ant.* 4. 272. Cf. Philo, *De spec. leg.* 4. 2 ff., whose statement that the thief has to repay (only) double the amount of the stolen goods is based on Exod. 22: 3. Philo further adds that the owner's right to enslave the thief, if he is unable to repay, is not inhuman, since the enslavement would be for a temporary period only.

⁷⁶ See Mekh. Neziqin/Mishpatim 13.

bandits, and pirates and their subsequent sale into slavery.⁷⁷ Stumpp notes that the theft of human beings was not a new phenomenon of Roman society. It already existed in the Hellenistic and the much earlier Phoenician period as well and developed into a profitable though illegal business in antiquity.⁷⁸ In some areas of the Roman Empire it had reached such proportions that special military measures had to be taken to undermine it.⁷⁹ According to Eric Hobsbawm, banditry can be seen as a 'universal social phenomenon' which was especially prevalent in peasant societies at times of economic hardship and resulting poverty.⁸⁰

Graeco-Roman and early Christian literary sources repeatedly mention the kidnapping and sale of freeborn citizens, some of whom are said to have belonged to the upper strata of society before they were enslaved. Often the victims of such robberies were women and children who were subsequently subjected to prostitution. In his *Eunuchus* Terence relates, for example, that robbers kidnapped a young girl in Sunion and sold her to a merchant, who would give her to someone else as a gift.⁸¹ In Plautus' *Curculio* a chaotic situation in a theatre provides an opportunity for the kidnapping of a woman who is later sold as a slave.⁸² In 422 CE Augustine wrote a letter to Alypius, bishop of Thagaste, asking him for intervention against the kidnapping of free citizens, especially women and children, in Africa whom slave dealers would abduct across the Mediterranean.⁸³ He asserts that even soldiers were amongst the delinquents. The kidnappers and slave dealers were obviously protected by powerful patrons.⁸⁴ The Testament of Joseph's discussion of the possibility that Joseph had been stolen by the slave trader who sold him to Pharaoh fits well into this context:

She [Pentephres' wife] said to her husband that through a certain young Hebrew the trader had become rich; they say that he surely stole him out of

⁷⁷ See also Peregrine Horden and Nicolas Purcell, *The Corrupting Sea. A Study of Mediterranean History*, Oxford 2000, 389.

⁷⁸ Bettina Eva Stumpp, *Prostitution in der römischen Antike*, Berlin 1998, 33.

⁷⁹ Ibid. 34 with references. See also Harris, 'Study', 124, with reference to Sueton, *Div. Aug.* 32; idem, *Tib.* 8.

⁸⁰ Eric J. Hobsbawm, *Bandits*, 2nd edn., Harmondsworth and New York 1985, 18.

⁸¹ Terence, *Eunuchus* 109 ff.

⁸² See Plautus, *Curculio* 644–52.

⁸³ See Augustine, *Epist.* 10, mentioned in Joachim Szidat, 'Zum Sklavenhandel in der Spätantike', *Historia*, 34 (1985), 360. On Augustine's letter see Henry Chadwick, 'New Letters of St. Augustine', *Journal of Theological Studies*, ns 34 (1983), 431–4.

⁸⁴ See Szidat, 'Sklavenhandel', 362.

the land of Canaan. Now, then, work justice concerning him; take the young man to your household, and the God of the Hebrews will bless you, because grace from heaven is with him (Test. Jos. 12: 2–3).

Pentephres believed her words, ordered the trader to come, and said to him: 'What is this I hear about you, that you steal persons from the land of Canaan and sell them as slaves?' The trader thereupon denied the allegation, and said that the Ishmaelites had left Joseph with him. Pentephres does not believe him and orders him to be stripped and beaten. 'And taking me aside from the trader he said to me: "Are you a slave or a freedman?" I said to him: "A slave". He said: "Of whom?" I replied: "Of the Ishmaelites." He said: "How did you become a slave?" And I said: "They bought me out of the land of Canaan." But he said to me: "You are really lying." And immediately he ordered that I also be stripped and whipped' (ibid. 13: 6).

The Graeco-Roman literary evidence also suggests that slave traders were often suspected of having stolen the slaves they sold.⁸⁵ Some slave markets, such as the one in Delos, were known as places where pirates sold their captives. Strabo writes that the chaotic political situation in Cilicia encouraged the inhabitants to turn to piracy:

The export trade in slaves was a major cause of all this criminal activity, as it had become extremely profitable. They were easy to capture, and the important and extremely wealthy centre of trade was not very far away—the island of Delos, where tens of thousands of slaves could be received and dispatched again on the same day, so that there was a saying, 'Trader, dock here, unload, your cargo has already been sold'. The reason was that after the destruction of Carthage and Corinth, the Romans had become extremely rich and made use of large numbers of slaves; and as pirates could see how easy it was to make money in this way, they sprang up all over the place, and raided and traded in slaves themselves (Strabo 14. 5. 2).

How pirates lured people into captivity is described by Pausanias: the pirates would anchor their ship at a certain place and ask locals to sell wine and food to them. Once the unsuspecting people arrived at the ship, the pirates violently seized them and sailed away.⁸⁶

That travellers were an easy prey to robbers who lurked at the wayside and pirates who populated the sea is illustrated by certain episodes which relate the adventures of the hero and heroine in the Greek erotic

⁸⁵ See e.g. Aristophanes, *Wealth*, 510–26.

⁸⁶ Cf. Pausanias 4. 35. 6.

novels of the late Hellenistic and early Roman period.⁸⁷ These novels deal with obstacles which the high-born lovers encounter after their marriage and which lead to their temporary separation. During extensive travels abroad (one of) the lovers may become enslaved in a foreign country for a certain period of time. Abroad they suffer humiliation, estrangement from their home and family, and the loss of their native identity. No one knows the high social status of their families, and they are a target for kidnappers and pirates who enslave them. In Chariton's novel *Callirhoe*, for example, Callirhoe is enslaved in Babylonia and eventually bought by Dionysius as a slave. She puts on a slave's tunic to indicate her new state (cf. *ibid.* 2. 2. 4). Away from home her beauty is the only sign of her upper-class origin. According to common prejudice, exceptionally beautiful people were considered to have been freeborn.⁸⁸ In Achilles Tatius' novel Leucippe suffers a similar fate: although she identifies herself as the daughter of the commander-in-chief of the Byzantines (cf. *ibid.* 6. 16), Thersander calls her harlot and slave (8. 1. 1). Unlike real life, all of these novels have a happy ending: the heroes and heroines eventually escape their enslavement and are reunited with each other and their families.

The Greek Jewish novel *Joseph and Aseneth* lacks the Greek erotic novels' travelogue, but the motif of the hero's enslavement in a foreign country appears there as well. Like the protagonists of the Greek erotic novels who live as strangers in a strange land and lose their status and identity, Aseneth initially considered Joseph to be 'an alien, and a fugitive, and sold [as a slave]' (4: 9/12). Joseph's enslavement to Pharaoh is underemphasized in the novel, though. The happy ending is inescapable here as well: the couple are united and marry, and Aseneth is integrated into Joseph's family.

According to Roman law, the kidnapping and sale of a free person into slavery was considered a criminal offence.⁸⁹ A free person who had been kidnapped by pirates could win back his freedom if he could prove to a Roman magistrate that he had been the victim of a robbery (cf. C.Th. 4. 8. 5); 'but his chances of success might be minimal in

⁸⁷ On these novels in comparison with *Joseph and Aseneth* see Catherine Hezser, '“Joseph and Aseneth” in the Context of Ancient Greek Erotic Novels', *Frankfurter Judaistische Beiträge*, 24 (1997), 1–40.

⁸⁸ Chariton, *Callirhoe*, 2. 1. 5 and 3. 2. 16.

⁸⁹ Cf. *Dig.* 49. 15. 24, C.J. 7. 14. 4.

practice', as Wiedemann notes.⁹⁰ Few if any attempts were made to trace the illegal origins of slaves who were sold at Roman slave markets.⁹¹ Stumpp believes that such an endeavour would have seriously diminished the Roman slave trade in whose flourishing the upper classes, to which the legal experts belonged as well, were interested.⁹² This impression can also be gained on the basis of Augustine's above-mentioned letter. Wealthy landowners seem to have protected the kidnappers, and even the government official in charge of the supervision of the harbours refrained from intervening.⁹³

Rabbis, just like Roman jurists, considered the theft and enslavement of other free human beings a criminal offence. Deut. 24: 7 already rules that 'if a man is found to have kidnapped a fellow Israelite, enslaving him or selling him, that kidnapper shall die'. Whereas the Mishnah does not address this subject, the Tosefta takes up the biblical prohibition when stating:

He who steals someone from amongst his brothers, from the children of Israel, it is the same whether he steals a man or a woman, a proselyte or a freed slave. It is the same whether they have stolen a man or a woman, a proselyte or a freed slave, behold, these are liable. [If] he has [already] sold him, whether to his father or to his brother or to another of his relatives, he is liable. [If] he stole him but did not [yet] sell him, or [if] he sold him and he is [still] standing in the market [but has not been taken into possession by his new master yet], he is exempt. He who steals slaves is exempt (T. B.Q. 8: 1).

The *baraita's* parallels in Mekhilta Neziqin/Mishpatim 5 and in Sifre Deut. 273 refer to Deut. 24: 7 with its death penalty for someone who steals another human being. Both of these texts seem to be particularly concerned with the theft and subsequent sale of children, whether one's own or others. Whereas the Mekhilta restricts the penalty to the theft and sale of viable (in contrast to deformed or handicapped) children [שאינו חייב עד שיגב בן קיימא, 'for one is not liable unless one steals a viable child'],⁹⁴ Sifre Deut. presents two different opinions: according to R. Yochanan b. Beroqah the term 'fellow Israelite' in Deut. 24: 7

⁹⁰ Wiedemann, *Greek and Roman Slavery*, 111.

⁹¹ See Stumpp, *Prostitution*, 34. ⁹² Ibid.

⁹³ Szidat, 'Sklavenhandel', 366.

⁹⁴ The Roman law of the Twelve Tables may even have advocated the abandonment and killing of handicapped children, see William V. Harris, 'Child-Exposure in the Roman Empire', *Journal of Roman Studies*, 84 (1994), 5 with reference to Cic. *De leg.* 3. 8. 19.

includes a person's own (adult?) son, that is, the biblical text is also directed against a father's sale of his own children, whereas sages say: 'He who steals his son and sells him is exempt' (cf. the discussion above). Like the Tosefta, Sifre Deut. adds that the biblical penalty does not apply to someone who steals a slave or a person who is half slave and half free.

According to the Tosefta and Sifre Deut., a person who stole a slave would not be exempt from any penalty, though. The slave was the property of another person, and theft of another person's property was prohibited in Exod 20: 13 already. The texts exempt such a person only from the severe biblical penalty which applied to the theft of a free human being, confirming the great status differences between slaves and free people in antiquity. Watson points out that Roman law on the issue was also 'not entirely settled or stable', since two considerations had to be taken into account: 'first, the slave might wish to be stolen, and even assist in the theft; second, the wrongdoer's motive need not simply be financial gain'.⁹⁵ Accordingly, Ulpian ruled that 'a person who persuaded a slave to run away is not a thief; for a person who gives bad advice does not commit theft...' (*Dig.* 47. 2. 36, Ulpian book 4). It seems that the intention to make a gain by the action was necessary for it to be considered a theft.⁹⁶ If someone stole another person's slave, he was liable to punishment, but this punishment will have been lower than the punishment for theft and enslavement of a free person.

⁹⁵ Watson, *Slave Law*, 58.

⁹⁶ See *ibid.* 60–1 with reference to other examples.

The Acquisition and Sale of Slaves

As already pointed out above, the employment of slaves was advantageous only under particular circumstances, and these circumstances also determined whether slave owners would rely on slave labour only or combine slave labour with other types of work. The extent to which slave labour was used in Roman Palestine will have depended on slaves' availability and price. The trade in slaves was a common ancient phenomenon, and Roman Palestine is unlikely to have constituted an exception in this regard. The specific ways in which the ownership of slaves was transferred from one person to another are regulated by both Roman property law and rabbinic halakhah.

THE ADVANTAGES AND DISADVANTAGES OF SLAVE VERSUS FREE LABOUR

Only under certain conditions was it profitable for the owners of large estates to use slaves rather than day labourers or tenants for agricultural work. One such condition was the large supply and cheap price of slaves. One may assume that in Roman Palestine the number of Jewish slaves increased drastically after the revolts against Rome, although it is impossible to determine how many of those who were captured and enslaved by the Romans would remain in—or eventually be brought back to—their native country and be offered at local slave markets. The dire economic situation after the revolts will also have led to an increase in debt slavery and in the number of those unfortunate farmers who lost their plots and had to sell themselves or their family members into slavery.

For slaves bought at the slave markets at ordinary times and under normal conditions the price would be rather high. Jones reports that

according to documents from second-century Syria, for example, a 7-year-old boy would cost 200 denarii and a girl of the age of 12, 350 denarii.¹ In Dacia a girl of the age of 6 was sold for 205 denarii, whereas a woman would cost 420 and a man 600 denarii. In Ravenna the price of a female slave was as high as 625 denarii.² Petronius considers 300 denarii a bargain price for a Jewish boy,³ while Horace views 500 drachmae (= denarii)⁴ as the customary price for a mature slave of poor quality.⁵ Children were obviously cheaper than mature slaves, since the possibilities for their employment were limited, and they had to be nourished until they had reached their full labour capacities. The average price for unskilled adult slaves seems to have been 500–600 denarii, a price which is also mentioned by Martial as the value of a slave prostitute.⁶ In addition, however, local variations and differences with regard to the specific skills and qualities of the slaves existed. In Egypt, for example, slaves seem to have been relatively cheaper, perhaps because most of them were home-born rather than imported.⁷ In Roman Italy handsome slave boys with a Greek education were sold for as much as 2,000 denarii.⁸ Such a high price could also be charged for a trained vinedresser or for experts in other fields.⁹ At the high end of slave prices stood those charged for slave entertainers, who counted as luxury items.¹⁰

Since the annual maintenance costs of slaves will have amounted to approximately 60 denarii a year, Jones estimates that 'a slave in the second century cost eight to ten times his annual keep'.¹¹ If one reckons with a day labourer's average wage of one denarius per day during the harvest season,¹² Hopkins's remark that the purchase price of 500 denarii for an unskilled slave would have been sufficient 'to support an average peasant family for four years', indicates that even simple

¹ See A. H. M. Jones, 'Slavery in the Ancient World', in *Slavery in Classical Antiquity. Views and Controversies*, Cambridge 1960, 9.

² Ibid. ³ Petronius, *Sat.* 68. ⁴ See Jones, 'Slavery', 9 n. 10.

⁵ Horace, *Sat.* 2. 7. 43. ⁶ Martial 6. 66. 9.

⁷ On slave prices in Egypt see Jones, 'Slavery', 10; William L. Westermann, *The Slave Systems of Greek and Roman Antiquity*, Philadelphia 1955, 100–1; Jean A. Straus, 'Le Prix des esclaves dans les papyrus d'époque Romaine trouvés en Egypte', *Zeitschrift für Papyrologie und Epigraphik*, 11 (1973), 289–95. For the suggestion that most of the Egyptian slaves were home-born rather than imported see Westermann, *Slave Systems*, 98.

⁸ Horace, *Ep.* 2. 2. 5. ⁹ Columella 3. 3. 6.

¹⁰ Westermann, *Slave Systems*, 100, with reference to Martial 8. 13: a physically deformed jester (*morio*) was bought for 20,000 sesterces at Rome.

¹¹ Jones, 'Slavery', 10. ¹² Cf. Matt. 20: 1–16.

farmhands were quite expensive and that their purchase required careful calculations with regard to their value and benefits.^{12a}

Although Jones asserts that slaves were employed even 'by persons of relatively humble means',¹³ one would rather agree with Hopkins, who notes that 'poor peasants with only small plots of land could not benefit from another pair of hands. They could not afford to maintain a slave.'¹⁴ The costs of the slave's annual upkeep had to be reckoned against the economic advantages gained by his labour and the resulting price compared with the costs of hiring a free labourer on a daily basis, whenever the necessity arose. Day labourers could be hired at periods when they were most needed and their physical strength could be fully exploited without precautions as to the possible damage one might cause to one's human property. Jones points out that 'the maintenance of a slave was a sufficiently serious item in the landlord's budget to make him keep a small permanent staff only, and... the cost of a slave was high enough to make frequent replacements uneconomic'.¹⁵ The maintenance of slaves was worthwhile only when they could be permanently employed, and permanent employment was possible on large estates only.¹⁶ As far as agricultural work is concerned, it seems that 'slaves were used on the home farm attached to a residential villa and for more highly skilled jobs, like vinedressing, but that ordinary arable farming was left to free tenants; and moreover, that agricultural slaves were normally bred'.¹⁷

Roman agricultural writers advised estate owners to employ day labourers rather than slaves for the most difficult and excruciating tasks to avoid damaging their slaves' bodies.¹⁸ Whereas no precautions had to be taken with regard to a day labourer's health, an injured, exhausted, or sick slave constituted a loss to the value of one's property. Since slaves were so expensive to purchase and maintain, landowners could not afford to have them work at less than their full capacity, but they could also not overburden them and thereby weaken their strength. Therefore the situation of slaves in agriculture was often better than that

^{12a} See Keith Hopkins, *Conquerors and Slaves. Sociological Studies in Roman History*, Cambridge 1978, 110.

¹³ Jones, 'Slavery', 1.

¹⁴ Hopkins, *Conquerors*, 108.

¹⁵ Jones, 'Slavery', 8.

¹⁶ See *ibid.* 15; Also Hopkins, *Conquerors*, 10.

¹⁷ Jones, 'Slavery', 11.

¹⁸ See e.g. Varro, *On Agr.* 1. 17; Cato, *On Agr.* 5 and 144; Sueton. *Jul. Caes.* 42.

of free labourers for whose physical well-being nobody cared. It was often considered more profitable to employ slaves for specialized tasks only, whereas day labourers were hired for the more ordinary tasks which had to be accomplished during the harvest season.

Altogether, then, the main disadvantage of slaves was the high price one had to pay for them and the costliness of their annual maintenance. In the case of home-bred slaves and exposed children raised as slaves, their owners had to invest a lot of money until they were old enough to work and benefit them. Day labourers, on the other hand, were paid an agreed-upon wage for the specific time (or tasks) for which they were employed and nothing more. Tenants—usually peasants who had lost their own farms and leased their land from large estate owners—would give the landlord a certain percentage of the land's proceeds. They did not require a salary or maintenance fees, but since they kept part of the harvest, they reduced the total of the estate's yield. To parcel out one's land to tenants was probably the easiest and most carefree way to operate large landholdings. Yet slave labour had advantages too: slaves were available throughout the year, they were not called away for military service and could be forced to perform any task their owner wanted them to do; they could be organized in work gangs which were easy to supervise.¹⁹

In Roman Palestine of the first centuries, as elsewhere in the Roman Empire, slave labour will have coexisted with other forms of agricultural work. In the New Testament gospels just as in rabbinic literature slaves are mentioned alongside free labourers, tenants, and smallholders. The significance of the different forms of labour for the economy of Roman Palestine is impossible to determine precisely. One can only point to certain factors which may have played a role in this regard. The number of slaves available in Roman Palestine is unlikely to have been as large as in Roman Italy. Since the supply was relatively scarcer, the average price will have been higher. It also seems that in Jewish society physical labour was not as much abhorred by free persons as it was in Roman society.²⁰ At least some rabbis seem to have valued their children's vocational training, and they also worked in agriculture, handicrafts, and trade

¹⁹ Hopkins, *Conquerors*, 108; Keith Hopkins, 'Slavery in Classical Antiquity', in *Caste and Race: Comparative Approaches*, London 1967, 170.

²⁰ See also Joseph H. Heinemann, 'The Status of the Labourer in Jewish Law and Society in the Tannaitic Period', *Hebrew Union College Annual* 25 (1954), 265.

themselves.²¹ Although the impression of a more positive attitude toward work, provided by rabbinic sources, may partly be due to rabbis' generally lower social status in comparison with Roman upper-class writers, it may nevertheless indicate that free labour was more widely available and used more readily in Jewish than in ancient Roman society.

Zeev Safrai has pointed out that at estates which depended on slave labour the supervisor would live in the estate house whereas the slaves would be housed in simpler houses near by.²² Many such structures have allegedly been excavated for Roman Palestine: a central estate house supplemented by 'the shoddy houses of the workers'.²³ As examples, Safrai refers to H. Muraq, Um Rihan, and Tirat Yehudah but adds that such houses were also found 'at many other sites'.²⁴ The problem with this argument, of which Safrai is aware himself, is the impossibility of determining who lived in the respective accommodation: the shacks could have housed free workers as well as slaves. Safrai assumes that houses which had kitchen facilities must have been used by free labourers,²⁵ but this hypothesis may well be contested: slaves would also often live in family-like units and mixed groups of slaves may have done their own cooking. On the basis of archaeology the question of slaves' versus free labourers' employment in agriculture can not therefore be solved. One has to ask rather whether free labourers would have been employed for longer periods than a day, or whether day labourers would stay overnight, in accommodation which was specially built for them. From that point of view it seems more likely that landowners would build houses to accommodate their slaves rather than the occasional free labourers for whose well-being they do not seem to have cared much anyway.

Safrai further argues that on the basis of the many halakhic discussions pertaining to tenants tenant farming must have been much more popular in Jewish society than slave or hired labour: 'This is clear from the great number of *halachot* which deal with tenant farmers and sharecroppers and the small amount of legal discussion pertaining to the operation of an estate based on hired or slave labor.'²⁶ While it is true that there are not many halakhot which deal with the employment

²¹ Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine*, Texts and Studies in Ancient Judaism 66, Tübingen 1997, 261–2.

²² Zeev Safrai, *The Economy of Roman Palestine*, London and New York 1994, 334.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid. 336.

of slaves on rural estates specifically, there are many hundreds of halakhot which deal with all aspects of slaves and slavery in a more general way, such as those pertaining to the sale of slaves to be discussed below. In any case, a direct conclusion from rabbinic references to social reality is not very persuasive and should therefore be avoided.

Slaves were also raised and bought as investments. Those slaves who were trained in particular crafts and/or had gained experience in particular industries or businesses could be employed on behalf of their owners and eventually be sold at a higher price. Their value would increase with the skills and experience they had acquired. For the master who bought trained slaves second-hand, however, the profits would have been diminished by the slaves' high capital value.²⁷ Skilled slaves would be able to work as producers of goods which could be sold on the market, thereby providing their owners with additional sources of income. They could also be leased out by their masters to work as craftsmen for others who had to pay them a wage. At least part of that wage would then be given to their owners.²⁸ In a similar way, skilled slaves could provide services as pedagogues, nurses, scribes, or physicians. One may assume that such services were mostly performed in the owner's own household, but they may have been provided to other people as well.²⁹ Last but not least, slaves served as luxury items and objects of prestige. They were visible reminders of their owner's socio-economic status and prestige, a function whose significance should not be dismissed.

SLAVE TRADE

Slaves were either sold by professional slave dealers at slave markets or transferred from one owner to another in the street or on one's estate by mutual agreement. Slave sale by mutual agreement amongst owners seems to have been limited to individual slaves whereas groups of slaves

²⁷ See Jones, 'Slavery', 15

²⁸ See Thomas E. J. Wiedemann, *Slavery*, Oxford 1987, 33.

²⁹ One could imagine that a slave who worked as an elementary teacher or a teacher of Greek might teach a group of children whose parents would pay him a certain salary, all or part of which would go to his owner. On slaves as children's teachers in Rome see especially Stanley F. Bonner, *Education in Ancient Rome: From the Elder Cato to the Younger Pliny*, London 1977, 46.

would usually be acquired from dealers and/or at slave markets.³⁰ The professional slave trade 'was a recognized industry, carried out, apparently, by men of poor reputation',³¹ notwithstanding the fact that some slave dealers seem to have belonged to, or maintained contacts with, the Roman elite.³² It seems to have been concentrated at a number of trading outposts around the Mediterranean in antiquity. In Hellenistic times, for example, the slave market at Tyre was well known. The Zenon papyri of third-century BCE Egypt indicate that Tyre was 'the most important outlet for Syrian slaves exported to Egypt; but other cities of the Phoenician coast also participated in slave trade'.³³ Rhodes and Delos are mentioned in literary sources as well.³⁴ After the Bar Kokhba revolt in the second century CE Jewish slaves are said to have been sold by the Romans at markets in Gaza and Hebron.³⁵ Syria remained an important supplier of slaves as well.³⁶ Harris emphasizes the great mobility in the Roman Empire which will have affected the slave trade: 'People took their slaves with them. And slave dealers bought wherever it was profitable and convenient to do so.'³⁷

The sale of slaves seems to have happened at large fairs which also served other purposes, as Westermann has emphasized:

In conformity with the general development of trade facilities which characterized the Hellenistic period, the concentration of different marketing activities at different points in the *agorai* of the Greek trading cities would rationally assign special places in them for the slave sales; but so far as is known there were no separate slave markets in the sense in which the term was used in the days of North American slavery.³⁸

³⁰ See William V. Harris, 'Towards a Study of the Roman Slave Trade', *Memoirs of the American Academy in Rome* 36 (1980), 125. The purchase of a large number of slaves from a slave dealer is mentioned by Josephus in *Ant.* 12. 209: Hyrcanus allegedly purchased a hundred slave boys and a hundred slave girls from slave dealers. The fact that the dealers are mentioned in the plural here may indicate that a single dealer would not normally have such large quantities of slaves available.

³¹ William W. Buckland, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge, 1970 (1st pub. 1908), 39.

³² See Harris, 'Study', 129–32.

³³ Westermann, *Slave Systems*, 37.

³⁴ Cf. Strabo 14. 5. 2.

³⁵ Cf. *Chronicon Paschale* 1. 474; Jerome, *Ad Zachariam* 11. 5; idem, *Ad Jer.* 31. 15.

³⁶ For references see Harris, 'Study', 139.

³⁷ Ibid. 128. See also Peregrine Horden and Nicolas Purcell, *The Corrupting Sea: A Study of Mediterranean History*, Oxford, 2000, 390: 'The ancient slave trade produced a major redistribution of population.'

³⁸ Westermann, *Slave Systems*, 37.

Slaves would have been sold alongside cattle, horses, camels, and other livestock, a situation which would have increased the denigration and humiliation to which slaves were exposed, and which would have been particularly gruesome to those who were newly enslaved.³⁹ That Jews attended such fairs in order to purchase slaves is evident from a text transmitted in the Tosefta and the Talmud Yerushalmi, which has already been quoted above (cf. T. A.Z. 1: 8 and y. A.Z. 1: 1, 39b).⁴⁰ The fair was perceived as a gentile institution to which rabbis nevertheless permitted their fellow-Jews to go for pragmatic reasons.⁴¹ The parallel in Gen. R. 47: 10 specifies that such fairs took place in Gaza, Acco, and Batanea. The *baraita* seems to imply that only Jewish slaves were purchased (and thereby redeemed?) at such fairs. The statement attributed to Resh Laqish indicates that both Jewish and gentile slaves could be purchased at such occasions.⁴² The reference to bringing gentile slaves 'under the wings of the *Shekhinah*' legitimates their purchase by Torah-observant Jews who might fear their involvement with idolatry.

Gentile slaves will have been brought to Roman Palestine by the Roman military and the non-Jewish inhabitants of the Greek cities. In the ancient Near East slaves were transported over long distances by caravans, and import taxes had to be paid for them when frontiers were crossed.⁴³ Caravan routes existed, for example, from Babylonia to Syria

³⁹ On fairs as locations where slaves were sold see also Zeev Safrai, *The Economy of Roman Palestine*, London and New York, 1994, 248: 'The fair appears in the sources as a place where one can find or sell such expensive goods or commodities as houses, fields, vineyards, slaves, handmaidens and pepper, which was rather expensive.' See also *ibid.* 260: slaves were traded alongside land and animals at such fairs.

⁴⁰ See Ch. 1 above. The Yerushalmi text has parallels in y. A.Z. 1: 4, 39c–d and in Gen. R. 47: 10 (on Gen. 17: 27).

⁴¹ On fairs in Roman Palestine see also Hayim Lapin, *Economy, Geography, and Provincial History in Later Roman Palestine*, Texts and Studies in Ancient Judaism 85, Tübingen 2001, 141–46.

⁴² According to a story in b. Git. 47a, Resh Laqish was a slave himself: he 'sold himself to the gladiators'. On this story see Marc Zvi Brettler and Michael Poliakov, 'Rabbi Shimon ben Laqish at the Gladiator's Banquet: Rabbinic Observations on the Roman Arena', *Harvard Theological Review*, 83 (1990), 93–8; see also Abraham Wasserstein, 'Resh Laqish amongst the Robbers' (Heb.), *Tarbiz*, 49 (1979–80), 197–8. I thank David Milson for this reference.

⁴³ Westermann, *Slave Systems*, 123–4. On taxes levied on imported slaves see also F. M. Heichelheim, 'Roman Syria', in Tenney Frank (ed.), *An Economic Survey of Ancient Rome*, vol. 4: *Africa, Syria, Greece, Asia Minor*, Paterson 1959, 165: 'Import duties on slaves are proven to have existed on the frontiers of the Roman Empire, of the provinces and of the *polis* districts.'

and from Palmyra to Petra and vice versa.⁴⁴ Jews who wanted to purchase gentile slaves could do so in nearby Syria, at the fairs of Gaza, Hebron, and Acco, and probably also in all of the coastal cities with a large non-Jewish population.

Jewish slaves seem to have been exported abroad as well. Safrai refers to a papyrus document from Egypt (P. Oxy. 1205) referring to a slave woman and her daughter from Ono in Judaea who were sold in Egypt.⁴⁵ She is said to have been redeemed by municipal functionaries from her hometown, who may have come to Egypt for that purpose. As a consequence of the first and second revolt many thousands of enslaved Jewish war captives will have been exported to Rome and Roman Italy.⁴⁶ Fuks assumes that 'many Jews walked in Pompey's triumphal procession which took place late in September 61 BC'⁴⁷ That hardly any Jewish funerary inscriptions from Rome explicitly mention the slave or freedman status of the deceased is not amazing: the Jewish war captives bought as slaves by pagans would rarely have been able to maintain their Jewish identity during the period of their enslavement and had become indistinguishable from non-Jews in both name and manner once they were released.⁴⁸ Other Jewish captives would have been sold on the local slave markets in Syria-Palestine or sent to Egypt to work in the mines.⁴⁹

Rabbinic sources indicate that rabbis were opposed to the sale of Jewish slaves abroad, probably because they feared that they would be exposed to idolatry. M. Git. 4: 6 rules: 'He who sells his slave to a gentile, or to [someone] outside of the land [of Israel], he goes forth a free man.'⁵⁰ That this ruling was actually put into practice is highly unlikely, though. Once the sale had been completed the gentile purchaser within the land of Israel and the Jewish purchaser abroad would consider the imported slave his property. Rabbis would not have had any influence on such transactions. They could express their opposition to selling slaves to gentiles or to the export of Jewish slaves, but they did not have any means to prevent such sales from happening.

⁴⁴ Westermann, *Slave Systems*, 124.

⁴⁵ Safrai, *Economy*, 395.

⁴⁶ See also Gideon Fuks, 'Where Have All the Freedmen Gone? On an Anomaly in the Jewish Grave-Inscriptions from Rome', *Journal of Jewish Studies* 36 (1985), 25.

⁴⁷ Ibid. 26.

⁴⁸ Some of these inscriptions have already been discussed in Ch. 1 above.

⁴⁹ See Fuks, 'Freedmen', 28-9 with reference to Jerome and the *Chronicon Paschale*, mentioned above.

⁵⁰ Par. Sifre Deut. 259.

The Tosefta elaborates the Mishnah's ruling concerning the sale of slaves to non-Jews and to people outside of the land of Israel:

He who sells his slave to gentiles, he goes out free, and he requires a deed of emancipation from his first master. R. Shimon b. Gamliel said: [A writ of emancipation is needed] when he did not write for him his receipt [אוני]. But [if] he wrote him his receipt, behold, this is [equal to] a deed of emancipation. Whether he sold him to him or gave him away as a gift [to a gentile], he goes out free. But if not, he does not go out free . . . (T. A.Z. 3: 16).

He who sells his slave outside of the land, he goes out free, and he requires a deed of emancipation from his second master. R. Shimon b. Gamliel says: Sometimes he goes out [free], and sometimes he does not go out [free]. How? If So-and-So son of So-and-So [was saying:] 'I have sold my slave to So-and-So, an Antiochian', he goes out free. 'To So-and-So, an Antiochian who lives in Lydda', he does not go out free . . . (T. A.Z. 3: 18).

T. A.Z. 3: 16 stipulates that a Jew who sells a slave to a gentile has to give him a letter of emancipation—which would make the sale impossible to carry out. In this way rabbis tried to prevent the transaction before it could even take place. According to R. Shimon b. Gamliel, a special writ of emancipation is unnecessary if the first owner had redeemed the slave from the second owner by paying the purchase price and had received a receipt for this money from him. Then the slave would gain his freedom.⁵¹

The Mishnah's anonymous ruling and R. Shimon b. Gamliel's commentary are also cited in the case of a slave sold to a new owner abroad (T. A.Z. 3: 18). In contrast to a slave sold to a gentile within the land of Israel, a slave sold abroad should receive a letter of emancipation from his second master, that is, the one who purchased him. This stipulation may have been necessary to ensure that the slave would really be released, since a letter of emancipation written in the land of Israel may not have been valid abroad. That the second owner would actually manumit the slave immediately after the purchase is highly unlikely, though.

The opinion attributed to R. Shimon b. Gamliel suggests further conditions for the slave's liberation. If the slave was sold to a foreigner residing in the land of Israel, even if that foreigner gave him a deed of emancipation, he does not go out free. This situation seems to coincide

⁵¹ See also y. Git. 4: 6, 46a.

with the one mentioned in T. A.Z. 3: 16—a slave sold to a gentile in the land of Israel—so that presumably the rules of that *baraita* apply to it as well: the first owner is required to give him his manumission document or receipt. Only if the second owner lives abroad is he required to liberate the slave himself. Again the emancipation document's effectiveness within the land of Israel and its ineffectiveness abroad may have been the reason behind this ruling. Thus it seems that R. Shimon b. Gamliel's statement only clarifies and explicates what the anonymous ruling already implied. Another clarification is added in T. Kel. B.Q. 1: 5: 'And he who sells his slave to [be purchased in] Syria is like one who sells [him] for [purchase] abroad.' Since the Roman province of Syria-Palestine could be considered a unit, a special distinction between (Jewish) Palestine and (gentile) Syria had to be made.

Whereas rabbis permitted the purchase of both Jewish and non-Jewish slaves at gentile fairs (see above), they tried to prohibit Jewish owners from selling their slaves at these markets. According to T. A.Z. 3: 19, the money received for a slave sold at a gentile fair may not be used by the seller; 'and they force his master to redeem him, even at a hundred times his price, and he brings him out into freedom'. Whether the slave was originally Jewish or gentile does not seem to have made a difference, probably because the gentile slave would have been circumcised by his owner, as discussed above.⁵²

The sale of Jewish-owned slaves at gentile fairs was probably prohibited by rabbis for fear that the slaves would be sold into idolatrous households. This prohibition stood in line with rabbis' general apprehension against selling slaves to gentiles or to people abroad. Again, we cannot assume that such rabbinic rules were actually followed by the populace: rabbis' sympathizers would not even think of selling their slaves to gentiles or at gentile fairs—in their case the rule to grant such slaves their freedom would be superfluous; others who would not listen to rabbis' recommendations anyway, would not follow these rulings. Therefore we must assume that such discussions were primarily theoretical rather than leading to a practical application in everyday life.

That even rabbis themselves acted against such rulings is evidenced by a story transmitted in y. Git. 4: 6, 46a. A series of *sugyot* take up the topic of selling slaves to gentiles or to people abroad and quote T. A.Z.

⁵² See Ch. 1.

3: 18–19 in this connection. The third *sugya* deals with a master who sells his slave abroad for a limited period of time. In this connection the following story tradition is quoted: ‘R. Tabla sold his slave [abroad] and stipulated with the [second] master [that when the second master would get his money back Tabla would get his slave back].’ R. Tabla (or the storyteller) obviously thought that a temporary sale of one’s slave abroad was permitted. The (fictitious?) temporariness of the sale—secured by the stipulation that the first master might recover his slave later by paying back the purchase price—made the sale into an idolatrous environment legitimate in the rabbi’s eyes. The notion of a temporary sale abroad was an amoraic novelty which circumvented the Mishnah’s and Tosefta’s strict prohibition against such an endeavour. It allowed amoraic rabbis and their contemporaries to conduct slave trade across borders and stands in line with the ruling transmitted in y. A.Z. 1: 1, 39b, referred to above, which allows Jews to purchase both Jewish and non-Jewish slaves at gentile fairs.

FORMS OF TRANSACTION

The transfer of a slave from one owner to another was subject to particular regulations transmitted in both Roman and rabbinic law. As already mentioned in Chapter 2, slaves were classified as *res mancipii* in Roman law. In a largely agrarian society *res mancipii* constituted the more important types of property: land, houses, slaves, cattle. They ‘could be transferred by a formal ceremony called *mancipatio* or by an adaptation of a legal process called *cessio in iure*’.⁵³ *Cessio in iure* meant that someone entitled to surrender the slave legally surrendered him under the proper circumstances.⁵⁴ Basically, however, the sale of a slave did not differ much from the sale of other forms of chattel. A contract of sale was set up between the two parties in which a description of the slave had to be given, and certain details, such as defects, had to be declared.

Whereas earlier Jewish literature does not provide any particular guidelines about the sale of slaves, rabbis were as scrupulous as Roman jurists with regard to regulating the sales transaction. According

⁵³ Alan Watson, *Roman Slave Law*, Baltimore and London, 1987, 47.

⁵⁴ See Varro, *On Agr.* 2. 10. 4.

to M. Qid. 1: 2–3, slaves were acquired though the transfer of money and the writing of a document. Whether the payment by itself conferred ownership rights, that is, was considered an alternative to the written deed, or whether it merely accompanied the formal transaction, is not specified by the Mishnah, but the first possibility seems more likely in view of the fact that gentile slaves could also be acquired by usucaption (cf. *ibid.* 1: 3), which is clearly presented as an alternative form of gaining ownership. In addition, the transfer of slaves is presented by rabbis in analogy to the transfer of women from their father to their husband (cf. M. Qid. 1: 1). In the case of women, too, no formal document seems to have been required. The document was only one possible form of betrothal. Betrothal and marriage contracts could be written but were not absolutely necessary.⁵⁵ One can imagine that for both women and slaves the documents of release from the husband's/master's authority would be more important than the documents of bondage to him: a divorce document would allow the woman to remarry and a manumission document would declare the slave to be free (cf. M. Qid. 1: 4).⁵⁶

Tannaitic rabbis seem to have been unanimous about the transfer of money as a legitimate form of acquiring ownership of the slave, but the case of usucaption seems to have been debatable. M. B.B. 3: 1 explains that usucaption is effected by occupation, that is, employment or usage of the slave for the duration of three full years. A more specific explanation is provided by T. Qid. 1: 5: 'What is usucaption of slaves? He tied on his sandal, and he loosened his sandal, and he carried after him [his] clothes [or: utensils] to the bathhouse, behold, this is usucaption.'⁵⁷ Interestingly, only domestic services are enumerated here. The employment of the slave must have been continuous over a long time period, otherwise usucaption would provide an easy way of seizing other people's slaves. That usucaption was less effective than acquisition by money or a deed is suggested by T. Ket. 2: 1: 'Greater [than usucaption] is the power of a document and money, for a document or money acquire a Hebrew slave, which is not the case with [mere] possession.'

⁵⁵ See Catherine Hezser, *Jewish Literacy in Roman Palestine*, Texts and Studies in Ancient Judaism 81, Tübingen 2001, 300–1.

⁵⁶ On divorce documents see *ibid.* 301–2.

⁵⁷ The *baraita* is also quoted in y. Qid.1: 3, 59d.

Whether this *baraita* is directed against slave owners who would use usucaption to gain possession of Hebrew slaves, or whether it suggests that usucaption was also discredited by some rabbis as a valid way of gaining possession of gentile slaves remains unclear.

The Mishnah seems to list money, a deed, and usucaption as alternative means of taking possession of a slave (cf. M. Qid. 1: 2–3 above). In y. Qid. 1: 2, 59a, on the other hand, the transfer of money is seen as a requirement accompanying the writing of a sales document:

[A] R. Abbahu said: [The purchase is made] by means of a deed of money [בשטר של כסף]. Behold, [it is] not by means of a deed of a gift [of himself to the master]; perhaps the slave will retract from it.

[B] From this [we could assume] that he might even retract from a writ of money?

[C] He said to him: Perhaps a year of famine comes and his master will retract.

The ‘writ of money’ mentioned in R. Abbahu’s statement seems to have been a sales document covering the amount of money paid to the seller for the slave. It is distinguished from a ‘writ of gift’ here, probably a document in which the slave ‘donates’ himself or his children to a master. This measure may have been taken by impoverished persons unable to support themselves and/or their children. The self-sale itself is not criticized here, but the problems connected with such a transaction are pointed out: in a case where no money has been handed over, the agreement, even when stipulated in writing (‘deed of gift’), could easily be retracted. Obviously rabbis had more confidence in the actual act of transferring money in exchange for a slave than in the written sales agreement. This becomes evident in [B] as well, where the possibility is raised that one of the parties might even retract from a writ of money, even though the payment would have been an obligation stated in the document. According to [C], such a situation might actually occur in times of great poverty due to unforeseen circumstances. It is an exception to the rule, however, and does not invalidate R. Abbahu’s opinion that a ‘writ of money’ should be the common means of transferring ownership of a slave. This text may indicate that in amoraic times there was a tendency amongst rabbis to require a written sales document along with the payment of the purchase price. To what extent such a document was actually used by rabbis’ contemporaries remains uncertain, though.

DEFECTS AND MISDEMEANOURS

In the market slaves were sold by public auctioneering.⁵⁸ Sometimes they were exhibited on raised platforms or in open cages, with sales signs around their necks.⁵⁹ The customers could examine the slave's physical stature and ask them to perform certain tasks to make sure that they were fit.⁶⁰ Pliny even suggested the use of depilatory cream to remove the body hair of boys and young men to make them look more attractive.⁶¹ This exposure 'reduced the slave to the level of an object—an object that was generally mute, passive, and devoid of any human dignity'.⁶²

According to Roman law, clothes or other assessories attached to the slave had to be recovered by the seller at the time of the sale or sold together with the slave.⁶³ An example for this practice is provided by the Testament of Zebulon, which states that Joseph's brothers 'had taken off from Joseph his father's coat when they were about to sell him and put on him an old garment of a slave' (4: 10). M. Ar. 6: 5, on the other hand, suggests selling slaves together with their clothes to increase their purchase value. The Tosefta provides further clarification on what is and what is not included in the sale:

He who sells a slave girl to his fellow has sold the clothes which are on her, even if they are a hundred [pieces]. But he has not sold the bracelets, earrings, coins, or necklaces around her neck. And if he said to him: 'A slave girl and everything which is on her I sell to you', even though there are upon her accessories worth a hundred maneh, behold, all of them are sold (T. B.B. 4: 3).

A clear distinction between relatively inexpensive garments and more costly items such as jewellery is made here. In the case of expensive

⁵⁸ Westermann, *Slave Systems*, 98.

⁵⁹ Ibid. See also Buckland, *Roman Law*, 39: this sale was called *de catasta*.

⁶⁰ In his treatise, *The Sale of Philosophers*, Lucian makes fun of this procedure. On this text and the examination of slaves at the time of their sale see Keith Bradley, '“The Regular, Daily Traffic in Slaves”: Roman History and Contemporary History', *The Classical Journal*, 87 (1992), 127: 'Humour of detail in Lucian often depends on the audience's familiarity with the practice of examining the commodity available.'

⁶¹ Pliny, *Natural History* 32. 135.

⁶² Bradley, 'Daily Traffic', 129.

⁶³ See *Dig.* 21. 1. 1. 1 (Ulpian): 'if anything went with the slave as an accessory in the sale, let him make full restitution. Likewise let the seller recover any accessories that he provided.'

accessories a special declaration concerning their inclusion in the purchase price is necessary at the time of the transaction, whereas no such declaration seems to have been necessary in the case of clothes. One may assume that the value of the clothes may have been more easily visible and be added to the costs, whereas the costly fabric of the garment or small items of jewellery could easily be overseen. The ruling serves to protect the seller from inadvertently losing expensive items which he gave his slave to wear.

After the informal agreement between the vendor and buyer, a sales contract would be written, which would include the age and description of the slave, including his skills and the *ethnos* he or she originated from (*natio*). Commenting on the latter Ulpian writes: 'it is advantageous to know his *natio*, since it is reasonable to suppose that some slaves are good because they originate from a tribe that has a good reputation, and others bad because they come from a tribe that is rather disreputable'.⁶⁴ Would Jewish slaves be considered of minor value because Romans considered Jews a nation of slaves (cf. Cicero, *De prov. cons.* 5. 10, quoted above)? Since we lack evidence on this issue, the question must remain open.

The seller was also obligated to state possible illnesses, blemishes, and other undesirable traits, such as the slave's former involvement in crimes or his tendency to escape. This requirement already existed in classical Athens and was similarly enforced by Roman magistrates in imperial times.⁶⁵ One version of the Edict of the curule aediles is transmitted in Aulus Gellius' *Attic Nights*:

Care must be taken that a notice is written out for each particular slave, in such a way that it is possible to find out exactly what diseases or defects each one has, whether he is liable to run away or loiter about at will, or is not free from liability for a claim for damages (*noxal*) (Aulus Gellius, *Attic Nights* 4. 2. 1).

In book 1 of his commentary on the Edict Ulpian writes:

The aediles say: Those who sell slaves are to apprise purchasers of any disease or defect in their wares and whether a given slave is a runaway, a loiterer on errands, or still subject to noxal liability; all these matters they must proclaim in due manner when the slaves are sold (*Dig.* 21. 1. 1. 1).

⁶⁴ *Dig.* 21. 1. 31 (21), Ulpian, from the Edict of the Curule Aediles, book 1. Cf. Buckland, *Roman Law*, 58.

⁶⁵ For Athens see Plato, *Laws* 11. 916.

Ulpian's version of the Edict continues later:

Again, vendors must declare at the time of sale all that follows: any capital offence committed by the slave; any attempt which he has made upon his own life; and whether he has been sent into the arena to fight wild animals (ibid.).

A special clause protected the buyer against latent defects which might later develop into an illness which would reduce the value of the slave. In such a case the buyer could revoke the sale within a certain period after the purchase was made.⁶⁶

In these different versions of the Edict the diseases and the crimes the slave might have committed remain rather undefined. Later Roman jurists discussed and differed over what constituted a disease or a defect that might invalidate the sale. A 'trivial fault' such as 'light fever or old malaria... or a minor wound' would not be counted serious enough. Neither would a 'defect of the mind' such as lightmindedness, irritability, stubbornness or 'other similar defects of character' render the slave deficient. The illness had to impair the usefulness of the slave's body for the purposes his owner had purchased him for: 'The guarantee is given rather on account of the health of the body than of defects of the mind.'⁶⁷ Limitations to the usefulness of the body included a female slave's inability to bear children and a eunuch's inability to procreate.⁶⁸ With regard to mental defects only a lunatic or 'one so silly or moronic that no use can be made of him' constituted exceptions to the rule.⁶⁹

Rabbinic sources indicate that rabbis were similarly concerned about protecting the buyer against possible damages which a deficient slave might incur. The Tosefta rules:

He who sells a female slave to his fellow on the basis that she has blemishes, [and] he said to him: 'This slave woman is sick', 'She is an idiot', 'She is an epileptic [נכפית]', 'She is dull-minded', and she had a[nother] blemish and he inserted it among the [other] blemishes, behold, this is a purchase made in error. If he told him that blemish and another blemish with it, this is not a purchase made in error (T. B.B. 4: 5).

⁶⁶ See Watson, *Slave Law*, 50.

⁶⁷ See *Dig.* 21. 1. 1. 7, quoted in Watson, *Slave Law*, 50–1.

⁶⁸ Woman unable to bear children: *Dig.* 21. 1. 14. 3; eunuch: cf. *Dig.* 21. 1. 7 (Paul).

⁶⁹ See *Dig.* 21. 1. 1. 7 (lunatic) and *Dig.* 21. 1.4.2 (moron).

He who sells his male slave to his fellow, and he is found [to be] a thief or swindler,⁷⁰ he becomes his property [that is, the purchaser's]. [If he joined] bandits or was inscribed [*proscriptus*] to the government [for a crime or for participating in a revolt],⁷¹ behold, this is a purchase made in error (T. B.B. 4: 7).⁷²

Like Roman jurists rabbis knew that the seller had to openly declare any defects at the time when he sold the slave. Neglecting to do so would be considered fraudulent and could render the sale invalid. Like Roman jurists rabbis provide examples for the types of defect which might invalidate the sale. In general, the defects mentioned by rabbis—physical or mental illnesses, on the one hand, and crimes and misdemeanours, on the other—resemble those discussed in Roman legal texts.⁷³

The first *baraita* (T. B.B. 4: 5) is difficult to understand. The difference between a valid purchase and a 'purchase made in error' seems to depend on the way defects are declared. What 'inserting' a blemish amongst others means is not entirely clear, but it seems to be a way of hiding a certain deficiency.⁷⁴ Only if all defects are openly declared at the outset, so that the purchaser can make his decision on that basis, is the transaction considered legitimate.

It is also possible that the defects listed by the seller at the outset here (illness in general, idiocy, epilepsy, dull-mindedness) would not have been considered very serious, and that by mentioning them the seller tried to hide the more serious deficiency which would have lowered the purchase price. The reference to the slave's sickness may have been too unspecific to have any effect. Idiocy and dull-mindedness would count only if they were caused by bodily defects and/or reduced the slave's

⁷⁰ Marcus Jastrow, *Dictionary of the Targumim, Talmud Bavli, Yerushalmi and Midrashic Literature*, New York 1985, 1323, derives the loanword קוביסטוס from the Greek κυβιστής, and translates with 'gambler, crafty person (swindler)', according to the explanation of the Tosafot. Samuel Krauss, *Griechische und lateinische Lehnwörter im Talmud, Midrash und Targum*, vol. 2, Hildesheim 1964 (1st pub. Berlin, 1899), 501, derives it from κυβευτής, 'Würfelspieler, Gaukler', which has a similar meaning.

⁷¹ See Saul Lieberman, *Tosefta Ki-fshutah*, vol. 10, New York 1988, 373.

⁷² The *baraita* is attributed to R. Chiyya in y. B.B. 7: 3, 15d.

⁷³ Warnings against purchasing a slave known to be a thief or a runaway slave are already transmitted in Achiqar: 'He who acquires a runaway slave or a thievish maid ... [ruins] the reputation of his father and his progeny by his own corrupt reputation' (84–5); '[A slave who has] a bar [on] his [fee]t or [who is a thie]f should not b[e] bought' (196).

⁷⁴ See also Lieberman, *Tosefta Ki-fshutah*, vol. 10, 373, who points to the Gaonim's explanation: the slave woman had another defect which the seller did not mention at all but hid amongst the other defects, and this neglect rendered the transaction invalid.

efficiency.⁷⁵ Epilepsy was not considered a bodily disorder in antiquity, but some jurists considered it worth mentioning nevertheless.⁷⁶ The buyer might have agreed to purchase a slave with these defects, unaware of a more serious deficiency. In rabbinic as in Roman law 'it was dolose to sell, knowing of a serious defect, of which the buyer was ignorant'.⁷⁷

In the second *baraita* no declaration of defects by the seller is mentioned. It is assumed that the slave's real nature became evident after the transaction only. The seller may have been ignorant of these practices or he may have deliberately avoided mentioning them to the buyer at the time of the sale. Another possibility is that the slave turned into a thief or swindler only after being sold to the new owner. In Roman law all of these possibilities are discussed in detail. If the seller knew that the slave was *fur aut noxius*, 'under some present liability for delict', that is, inclined to escape, gamble, or steal, he had to mention this to the buyer at the time of the sale.⁷⁸ If these negative practices occurred only after the sale, the seller is not liable at all: 'no liability existed for defects which had no existence at the time of sale, whether they had ceased to exist, or had not yet come into existence'.⁷⁹

The *baraita* does not specify whether the delinquent practices were known to the seller and occurred before the sale or whether they were a new phenomenon of which the seller had been unaware. The rabbinic authors distinguish between the different types of delinquencies only. A bad character and minor offences were obviously not considered a good enough reason to invalidate the sale. Although Roman legal texts suggest that the seller might state that a slave was not given to stealing,⁸⁰ Ulpian maintains that if he actually sold a slave given to stealing in ignorance he is not liable for his stealing propensity.⁸¹ It is unclear

⁷⁵ See Buckland, *Roman Law*, 55 and 59.

⁷⁶ Ibid. and 57. Cf. *Dig.* 21. 1. 1. 7. According to Alexander Gulak, 'A Slave Sale Document in Talmudic Law' (Heb.), *Tarbiz*, 4 (1932), 106, the slave's freedom from epilepsy is mentioned in some Egyptian papyrus documents. In pagan culture epilepsy seems to have been identified with possession by demons, see *ibid.* 109. In contrast to this perception, the rabbinic authors of the *baraita* probably viewed epilepsy as an ordinary mental disorder.

⁷⁷ Buckland, *Roman Law*, 44.

⁷⁸ Ibid.

⁷⁹ Ibid. 53.

⁸⁰ Cf. *Dig.* 19. 1. 13. 1 where *fur* refers to a slave given to stealing. An example is provided of a slave by the name of Laborius of whom the seller declared that he was not a gambler, had never fled to the statue of the Emperor, and was not a *fur*, that is, he had never stolen anything from his master, cf. *ibid.* 21. 1. 18.

⁸¹ See Buckland, *Roman Law*, 45, with reference to *Dig.* 19. 1. 13. 1.

whether the rabbis of the *baraita* declared the sale valid because the slave was revealed as a thief or swindler after the sale only or whether they dismissed theft and dishonesty as not serious enough offences. The latter possibility seems to be more likely, since the slave who is a thief or swindler is distinguished here from one who joined bandits or was prosecuted for a crime.

Roman law distinguishes between private delicts (*noxia*) and capital crimes (cf. *Dig.* 21. 1. 1. 1). With regard to the former, 'the vendor must declare if the slave is subject to any present liability for delict, *i.e.* not any delict that the man has ever committed, but only those as to which the liability is still outstanding'.⁸² It seems self-evident that the slave's liability for a capital crime (*fraus capitalis*) had to be declared as well. The rabbis of the *baraita* may have had the latter in mind when referring to a slave being 'inscribed to the government' (T. B.B. 4: 7) for a crime considered as serious as banditry. Since we may assume that rabbis would deal with civil law cases themselves, more serious delicts persecuted by the Roman government seem to be at issue here. That the rabbis, unlike Roman jurists, do not mention the so-called *noxia* (private delicts) in this regard is amazing. The lack of reference to these delicts does not necessarily mean, however, that rabbis would ignore them altogether. As examples of delicts they may have chosen to mention the most serious crimes only.⁸³

The Babylonian Talmud transmits the text of a slave sale document in a statement attributed to Rab Yehudah:

Rab Yehudah ordained concerning the document of a slave sale [that it should state]: 'This slave is lawfully qualified to be a slave [מוצדק לעבדו],⁸⁴ and free and removed from [the rights of] the free and from liabilities and claims of the king and the queen [ומן עלולי ומן ערורי מלכא ומלכתא].⁸⁵ And the mark [tattoo?] of a human being [*his owner*] is not upon him, and he is bare of any

⁸² See Buckland, *Roman Law*, 56, with reference to *Dig.* 21. 1. 17. 17.

⁸³ Alexander Gulak, *Das Urkundenwesen im Talmud. Im Lichte der griechisch-ägyptischen Papyri und des griechischen und römischen Rechts*, Jerusalem 1935, 104–5, assumes that transgressions of both civil and criminal law are implied in the rabbinic text, in analogy to the Roman reference to *noxia* and *fraus capitalis*.

⁸⁴ Translation in accordance with Jastrow, *Dictionary*, 1263, against Gulak, *Urkundenwesen*, 102–3, who translates the expression with 'hörig', obedient.

⁸⁵ The term מלכתא could, perhaps, also be read as מלכותא, 'state', see Gulak, *Urkundenwesen*, 105 n. 32. The meaning would probably be the same: the text declares that the slave is free from obligations to the royal house, *i.e.* the state.

blemish and ulcer which would come forth until [the end of] four [months?],⁸⁶ [whether] new or old' (b. Git. 86a).

The first claim, that the slave is 'lawfully qualified to be a slave' was probably meant to indicate to the buyer that the slave was not wrongfully enslaved. Roman law was similarly concerned about preserving the freedom of the freeborn, as already pointed out above. Whether the Bavli's reference to the slave's freedom from 'liabilities and claims of the king and the queen [or: state]' equals the Tosefta's reference to his not being 'inscribed to the government' (cf. T. B.B. 4: 7, above) is uncertain but possible. In its present form the text was clearly formulated by Babylonian amoraim. To what extent it is based on earlier Palestinian prototypes and adapted to Babylonian circumstances is impossible to determine until we know more about ancient Iranian slave law.⁸⁷

The mark mentioned in the following sentence may refer to a tattoo which identified the slave as belonging to a particular owner.⁸⁸ T. Makk. 4: 15 rules: 'He who makes a mark on his slave [הרושם את עבדו] that he will not escape, is exempt [from the prohibition against tattooing].' Such 'stigmata' are also mentioned in Graeco-Roman literary texts and in Greek papyrus documents.⁸⁹ They may have been undesirable because they could not be removed and replaced by the next owner. And they may have been seen as evidence of the slave's inclination to escape.⁹⁰ Tattoos had a dual function: they served as a mark of owner-

⁸⁶ The term טצהר seems to be derived from the Persian and means 'four', see Gulak, *Urkundenwesen*, 108.

⁸⁷ See also Gulak, *Urkundenwesen*, 114, who reckons with a Babylonian reworking of a Palestinian prototype. On Iranian slave law see A. Perikhanian, 'Iranian Society and Law', in Ehsan Yahshater (ed.), *The Cambridge History of Iran*, vol. 3, part 2, Cambridge 1983, 635, who stresses the similarities with Roman slave law, and Maria Macuch, *Rechtskasuistik und Gerichtspraxis zu Beginn des siebenten Jahrhunderts in Iran. Die Rechtssammlung des Farrohmāz i Wāhrāman*, Wiesbaden 1993, 22–39. I thank Yaakov Elman for these references.

⁸⁸ On the marking of slaves see Philo, *De spec. leg.* 1. 58, according to whom tattooing a mark onto a slave's skin with a burning iron, so that the mark would remain there forever, was a common practice. On the biblical reference of marking slaves by piercing their ears see Victor (Avigdor) Hurowitz, 'His Master Shall Pierce his Ear with an Awl' (Exodus 21.6)—Marking Slaves in the Bible in Light of Akkadian Sources', *Proceedings of the American Academy for Jewish Research*, 58 (1992), 47–77.

⁸⁹ See Page DuBois, *Slaves and other Objects*. Chicago and London, 2003, 4–5 and 106–9; Gulak, *Urkundenwesen*, 106, with reference to P. Paris 10.

⁹⁰ See Hurowitz, 'Marking', 60: 'A marked slave was one who displayed inclinations to flee or disobey, and as such had to be especially watched.'

ship and at the same time prevented the slave from escaping unnoticed.⁹¹ The inscription on the body of the slave marked the slave 'as object, as thing, as commodity, and as always already criminal'.⁹² It also connected slaves with barbarians or foreigners, who were believed to tattoo themselves. Slaves were the tattooed 'barbarians' within one's own household and society.⁹³ The practice of tattooing also indicates, however, that as human beings slaves were basically indistinguishable from the free.

The talmudic reference to the slave's freedom from illnesses and defects is reminiscent of Roman law, as is the imposition of a time frame in which claims for damages can be made. In all likelihood, the text is based on various, uncertifiable and indirect influences from Greek, Roman, and Persian law. Ancient slave sales documents may all have resembled each other in some regards, irrespective of their particular local origins.

Unlike Roman law, none of the rabbinic texts states that the slave's inclination to escape should be mentioned to the buyer at the time of the sale. Gulak assumes that such a reference would have been contrary to Jewish law which provided protection to the escaped slave. Therefore rabbis would have refrained from holding the seller responsible for the slave's flight.⁹⁴ Such an assumption is not convincing, though. One may assume that Jewish slave owners would have been as eager as Roman slave owners to prevent their slaves' escape. And just like Roman law Jewish law protected the slave owners' rights in this regard.

In biblical law the protection of the escaped slave seems to have applied to Hebrew slaves only, as the context of Deut. 23: 16 ('You shall not turn over to his master a slave who seeks refuge with you from his master') suggests.⁹⁵ Gentile slaves were considered to be enslaved

⁹¹ See Hurowitz, 'Marking', 63. ⁹² DuBois, *Slaves*, 5.

⁹³ Ibid. 108. ⁹⁴ Gulak, *Urkundenwesen*, 109.

⁹⁵ The following text prohibits Israelite women from being cult prostitutes (Deut. 23: 18 f.) and Israelite creditors from charging interest for loans to their countrymen (23: 20 f.). Against David Daube, 'The Rabbis and Philo on Human Rights', in David Sidorsky et al. (eds.), *Essays On Human Rights: Contemporary Issues and Jewish Perspectives*, Philadelphia 1979, 240, and Daniela Piattelli, 'The Enfranchisement Document on behalf of the Fugitive Slave', in A. M. Fuss (ed.), *Jewish Law Association Studies III: The Oxford Conference Volume*, Atlanta 1987, 59, who believe that gentile slave fugitives are referred to here. Piattelli concludes that biblical legislation 'differs most significantly from all the others in antiquity' in this regard. Sumerian and Akkadian sources mention penalties against those who help fugitive slaves.

perpetually and could be treated as slaves. That escaped slaves were customarily returned to their owners in biblical times seems to be illustrated by a narrative in 1 Kgs. 2: 39–40: two slaves of Shimei had run away to King Achish in Gath. When Shimei was told where they were, ‘he saddled his ass and went to Achish in Gath to claim his slaves; and Shimei returned from Gath with his slaves’ (v. 40). Like the Bible, Philo seems to have had Hebrew slaves in mind when quoting and elaborating on Deut. 23: 16 (see *De virt.* 124). In the preceding passage he deals with debtors who became enslaved as a consequence of their dire circumstances (ibid. 122–3). Philo explains such slaves’ inclination to escape with reference to their masters’ possible cruelty toward them. Such a slave should be pardoned by his master or sold to someone else (ibid. 124).

The rabbis of the Mishnah were clearly opposed to helping slaves escape, as M. Git. 4: 6 indicates:

One should not ransom captives for more than their value [purchase price], for the good order of the world [מפני תקון העולם]. One should not help captives escape, for the good order of the world. R. Shimon b. Gamliel says: For the sake of the captives.

According to this rule, Jews who were captured and enslaved by Romans and tried to escape were not supposed to be helped by their fellow-countrymen, since this would only anger the Romans. In reaction, they might become even harsher towards the captives (cf. R. Shimon b. Gamliel’s statement). In order to maintain the ‘good order of the world’ it is suggested one should adhere to the status quo rather than help slaves change their fate.

Although rabbis did not encourage Jews to help slaves escape, since such an escape would have deprived the owners of their rightful property, a halakhic tradition attributed to R. Simon in the name of R. Yehoshua b. Levi and R. Yose b. Saul in the name of Rabbi in y. Git. 4: 4, 45d suggests that if a slave had actually escaped and the owner had given up hope of recovering him or her, the slave should remain ownerless and be given a writ of emancipation. This rule is illustrated by the following story:

The female slave of Rabbah b. Zutra fled. He had despaired of recovering her. [When he finally recovered her] he came and asked R. Chaninah and R. Yehoshua b. Levi. He said to him: He does not have the right to enslave her again.

Roman law excluded such a possibility,⁹⁶ but the case of Onesimus, mentioned in Paul's letter to Philemon, may provide an analogy. In this letter Paul relates the case of the slave Onesimus who had escaped from his master Philemon and met Paul in prison. Paul is willing to baptize the slave and to accept him into the Christian community, but at the same time returns him to his master. He asks Philemon to manumit Onesimus, but this manumission would be an act of kindness rather than an obligation.⁹⁷ Like the rabbinic authors of the case story just mentioned, Paul recommends the fugitive slave's release, and like them he had to rely on his ability of persuasion rather than having had the authority to actually enforce his ruling. But the other view, that fugitive slaves should remain enslaved, is found in early Christianity as well. The Council of Chalcedon (451 CE) prohibited monasteries from sheltering fugitive slaves without their owners' permission, and John Chrysostom urged fellow-Christians to make sure that slaves remained enslaved.⁹⁸ Both Christian church leaders and rabbis acted in harmony with Roman law, then, while at the same time allowing for individual acts of kindness on behalf of fugitive slaves.

That rabbinic texts about slave sales do not require the seller to declare the slave's tendency to escape does not necessarily mean that rabbis were in favour of slaves' flight from their owners, then. The lack of reference to such a possibility is probably due to the generally unsystematic character of rabbinic tradition rather than to a divergent rabbinic—or ancient Jewish—treatment of slaves.

⁹⁶ Gulak, *Urkundenwesen*, 112: *derelictio* did not set the slave free.

⁹⁷ Paul, Letter to Philemon. On this text see Piattelli, 'Enfranchisement Document', 61–5; Gillian Feeley-Hanik, 'Is Historical Anthropology Possible? The Case of the Runaway Slave', in Gener M. Tucker and Douglas A. Knight (eds.), *Humanizing America's Iconic Book, Society of Biblical Literature Centennial Addresses 1980*, Chico 1982, 116–25; Jennifer A. Glancy, *Slavery in Early Christianity*, Oxford and New York 2002, 91–2; Peter Lampe, 'Keine "Sklavenflucht" des Onesimus', *Zeitschrift für die Neutestamentliche Wissenschaft*, 76 (1985), 135–7 (who, mistakenly, assumes that Onesimus did not fall under the category of 'fugitive slave' but had committed a crime in Philemon's house); Franz Laub, *Die Begegnung des frühen Christentums mit der antiken Sklaverei*, Stuttgarter Bibelstudien 107, Stuttgart 1982, 67–70; Henneke Gültzow, *Christentum und Sklaverei in den ersten drei Jahrhunderten*, Bonn 1969, 30–40.

⁹⁸ See Glancy, *Slavery*, 90–1, with reference to the Council of Chalcedon, canon 4, and John Chrysostom, *Homilies on the Epistle of St Paul the Apostle to Philemon*.

PAPYROLOGICAL EVIDENCE

Surviving slave sales documents concerning Jewish slave owners or slaves are entirely absent for the period under discussion here. A few documents from an earlier period exist, though. At least half of the fragments of the Samaria papyri from Wadi Daliyeh can be identified as deeds of slave sales.⁹⁹ These papyri are written in Aramaic and seem to have belonged to wealthy patricians who lived in Samaria in the fourth century BCE.¹⁰⁰ Approximately half of the sales documents concern the sale of a single slave, whereas the other half deal with the sale of a number of slaves.¹⁰¹ Since the slaves bear patronyms in these papyri Gropp assumes 'that they were originally freeborn but were reduced to servitude through poverty'.¹⁰² Sometimes it is explicitly stated in the contract that the slave is 'without defect' or without a slave mark. The slave mark may have been put on a slave who was known to escape, or in order to enable the former master to eventually reclaim his slave.¹⁰³

The documents provide clear evidence of the sale of Samaritans or Jews as slaves to Samaritan owners. Except for the occasional Edomite or Persian name, all of the names of the sellers, slaves, and buyers are Yahwistic. Gropp therefore emphasizes that this sale 'in perpetuity' 'directly violates Lev. 25: 39–47 (compare also Jer. 34: 8–17). The Samaritans did not make the necessary distinction between their brothers and foreigners.'¹⁰⁴ Neither may their Jewish contemporaries have done so. The reason the Samaritan owners of the deeds carried the documents with them in their flight into the desert is unclear. Perhaps they hoped to reassert their ownership rights at a later, more peaceful time.

Another slave sale document, this time dated to 151 CE, concerns the sale of a female slave of Phrygian and possibly Jewish origin to an

⁹⁹ Douglas M. Gropp, *Wadi Daliyeh II. The Samaria Papyri from Wadi Daliyeh and Qumran Cave 4. xxiii: Miscellanea*, part 2, by Moshe Bernstein *et al.*, Discoveries in the Judean Desert 28, Oxford 2001, nos. 1–9, 11(?), 18–20, 22, 26. Nos. 10, 12, 13 recto, 27(?) are deeds of the pledge of a slave in exchange for a loan; 13 verso may be the document of the release of a pledged slave or the settlement of a dispute over a slave, see *ibid.* 5. On Samaria Papyrus 1 see also Frank Moore Cross, 'Samaria Papyrus 1: An Aramaic Slave Conveyance of 335 BCE Found in the Wadi Ed-Daliyeh', *Eretz-Israel*, 18 (1985), 7–17.

¹⁰⁰ Gropp, *Wadi Daliyeh II*, 3.

¹⁰¹ Single slave: nos. 1, 3, 4, 11 recto, 18, 19, 26(?); multiple slaves: nos. 2, 5, 6, 7, 8, 9, 20. Cf. Gropp, *Wadi Daliyeh II*, 6.

¹⁰² *Ibid.* 7.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

Alexandrian purchaser.¹⁰⁵ The argument for the Jewishness of the slave, however, is based merely on the alleged derivation of her name: the slave girl may have been named Sambatis by her parents or former master 'because they were observers of the Sabbath'.¹⁰⁶ Her new Alexandrian master, who had bought her in the market, is said to have renamed her Athenais, after the goddess Athene. In the document the girl is explicitly said to have been of Phrygian origin (*ψένει Φρυγίαν*).

No deeds of slave sales exist amongst the Babatha and Salome Komaise papyri or amongst any of the other documentary texts from the Judaean Desert caves. In fact, we lack any material evidence of slave sales contracts written or commissioned by Jews in Roman Palestine or the Roman world at large (with the possible exception above). This does not necessarily mean, however, that Jews never used such contracts or that they never sold or purchased slaves. A direct conclusion from the lack of documentary evidence to the lack of the phenomenon of slave sales (by deed) is certainly misleading. Roger Bagnall has addressed this problem in connection with late Roman Egypt. Not much evidence of slave sales exists for Ptolemaic Egypt, so that one might conclude that not many slaves were sold at that time. Bagnall rejects this assumption, however, and states: 'Slavery was not uncommon in Ptolemaic Egypt, but it generated a documentation which rarely included contracts of sale.'¹⁰⁷ Accordingly, 'we cannot rationally maintain, faced with the Ptolemaic evidence, that preserved contracts of sale for slaves are a useful index of the presence of slaves in a society'.¹⁰⁸ This argument applies to the later Roman period as well: from the late third century CE onwards 'documents recording sales of all sorts decline'.¹⁰⁹ Thus the nature of the documentation at large can account for the sparseness of slave sales contracts.¹¹⁰ Bagnall suggests that 'the numbers game must be

¹⁰⁵ Victor A. Tcherikover and Alexander Fuks (eds.), *Corpus Papyrorum Judaicarum*, vol. 3, Cambridge, Mass. 1964, no. 490.

¹⁰⁶ Ibid. 73.

¹⁰⁷ Roger S. Bagnall, 'Slavery and Society in Late Roman Egypt', in Baruch Halpern and Deborah W. Hobson (eds.), *Law, Politics and Society in the Ancient Mediterranean World*, Sheffield 1993, 223.

¹⁰⁸ Ibid. 223–4. ¹⁰⁹ Ibid. 226.

¹¹⁰ In their survey of papyrus documents from the Roman Near East Cotton, Cockle, and Millar list a few documents from Syria which relate to the sale of slaves, cf. H. M. Cotton, W. E. H. Cockle, and F. G. B. Millar, 'The Papyrology of the Roman Near East: A Survey', *Journal of Roman Studies*, 85 (1995), nos. 1, 4, 27, 28.

abandoned for this subject'.¹¹¹ The surviving evidence or lack of it tells us nothing about the actual numbers or sales of slaves.

Just as the Babatha and Salome Komaise archives do not contain documents relating to slaves, the archive of Aurelius Isidoros from Karanis, dated to the end of the third century CE, does not provide any information about this estate owner's slave holdings.¹¹² Yet it is obvious that he must have owned slaves. The documents may have been lost, they may not have been considered worthy of preserving, or they were never written, the sale being conducted by oral agreement and the transfer of money only. At least according to some rabbis, a written sales contract was not absolutely necessary, as pointed out above. Some slave owners may have preferred to save the money which the hiring of a scribe and the writing of a contract would have cost in addition to the slave himself.¹¹³

IMPERIAL LEGISLATION

Despite the lack of papyrological evidence, not only rabbinic but also late Roman imperial legislation suggests that Jews continued to purchase slaves in the fourth and fifth century CE. The prohibition against purchasing and proselytizing Christian slaves was promulgated by Constantine II and repeated by his successors. According to a decree by Constantine II, a slave 'of another sect or nation' (*sectae alterius seu nationis*) purchased by a Jew 'shall be immediately vindicated to the fisc' (C.Th. 16. 9. 2).¹¹⁴ If the slave is circumcised by his Jewish owner, the latter will also be punished by capital punishment in addition to losing his slave (*ibid.*). The fact that the decree had to be repeated by successive emperors indicates that it was not very effective in banning the Jewish

¹¹¹ Bagnall, 'Slavery', 226. See also Harris, 'Study', 117: 'In the provinces, the lack of epigraphical evidence for the existence of large numbers of slaves has been rashly interpreted as evidence that they did not exist.'

¹¹² Bagnall, 'Slavery', 228, with references.

¹¹³ Many modern Israeli house- and apartment-buyers' neglect to hire their own lawyer, who would protect their rights, in order to save the lawyer's costs, can serve as an analogous phenomenon.

¹¹⁴ The text is quoted and translated in Amnon Linder, *The Jews in Roman Imperial Legislation*, Detroit 1987, 144–51.

purchase and possession of non-Jewish slaves.¹¹⁵ This phenomenon rather indicates that Jews did indeed continue to acquire gentile slaves and to circumcise them.

A tradition transmitted in Sifre Deut. 118, which urges Jews to purchase only Hebrew slaves, is unlikely to have been motivated by Christian imperial legislation prohibiting the purchase of gentile slaves. The reason behind the ruling was probably rabbis' idealistic assumption that a Jewish slave owner would treat his fellow-Jewish slave more mildly than a gentile owner and eventually release them. More puzzling is the rabbinic prohibition against women purchasing Hebrew slaves (cf. T. Sot. 2: 9) which seems to imply that they were allowed to purchase non-Jewish slaves on behalf of the householder. The prohibition is linked to women's inability to sell themselves and their daughters (cf. Mekh. Neziqin 3). These rulings limit the absolute authority over at least some of the members of the slave *familia* to the *paterfamilias*. In y. Yeb. 7: 1, 8a however, even (male) slaves are considered able to purchase slaves, and no distinction between Jewish and non-Jewish slaves is made. The only condition stated is 'that his master has authority over them'. The slaves act as agents of the householder here.

¹¹⁵ Cf. C.Th. 3. 1. 5 (Gratian, Valentinian II, Theodosius, 384 CE); C.Th. 16. 9. 4 (Honorius, Theodosius II, 417 CE); C.J. 1. 10. 2 (Justinian, between 527 and 534 CE).

12

Slaves as Intermediaries in Business Transactions

THE employment of slaves in business was fraught with ambiguities. On the one hand, slaves were not free agents but under the authority of their masters in all respects. On the other hand, in order to do business for their masters, slaves had to be granted a certain amount of power and autonomy.¹ They were both extensions of their masters and independent persons.² One of the 'great contradictions of slavery' becomes evident here: 'on the one hand the master wants the slave to be an automaton who is nothing more than an extension of his will, but on the other hand he needs the slave to take some initiative if he is to be properly served'.³ In both Roman and rabbinic legal traditions the complex issue of slaves' agency in commercial enterprises is addressed.

Roman law treats the slave in much the same way as the son with regard to the *paterfamilias*' responsibility for their business dealings. If someone employed a free agent to do business on his behalf, even if it involved his (the initiator's) own property, he was not able to sue or to be sued by the third party, that is, he was not held legally responsible for the action.⁴ Slaves and sons, on the other hand, 'being in the power of the head of the family, could enter contracts that gave the *paterfamilias* the right of action'.⁵ With regard to acquisition through sons and slaves Gaius writes:

¹ On slaves as business administrators see also Keith Hopkins, 'Novel Evidence for Roman Slavery', *Past and Present*, 138 (1993), 6.

² William Fitzgerald, *Slavery and the Roman Literary Imagination*, Cambridge 2000, 13 speaks of a 'paradoxical symbiosis between the master and his "separate part"'.
³ Ibid. 27.

⁴ Alan Watson, *Roman Slave Law*, Baltimore and London, 1987, 90.

⁵ Ibid.

Therefore, whatever children in our power and slaves in our ownership receive by *mancipatio*⁶ or obtain by delivery, and whatever rights they stipulate for or acquire by any other title, they acquire for us. For a person who is in our power can have nothing of his own (Gaius, *Inst.* 2. 87).

Through those whom we have in our power we acquire not only ownership but also possession: we are regarded as possessing anything whose possession they have taken: on this account usucaption runs through them (ibid. 2. 89).

Accordingly, slaves (and sons) would be more convenient intermediaries in business transactions than free individuals: their masters (or fathers) would have the right to sue the third party in case of fraud, whereas they themselves would have limited liability only.⁷ Since 'the head [of the family] alone could own property, . . . the acts of the slave or son were within limits treated as the acts of the *paterfamilias*'.⁸

SLAVES' USE OF MONEY

A slave doing business for his master was given the so-called *peculium*, 'a working capital, "borrowed" from his master'.⁹ At least theoretically the property belonged to the slave owner, since slaves could not own any property themselves: 'Those who are in another's power can hold property forming part of a *peculium*; but they cannot possess it, because possession is not only a matter of physical fact but also of law' (*Dig.* 41. 2. 49. 1, Papinian, book 2 of Definitions). The *peculium* allowed slaves a certain freedom of action, however, and 'in practice the slave actually had complete use and control of its contents'.¹⁰ The proceeds of the *peculium*, the income gained through the slave's actions, would

⁶ The ownership of certain types of property, the so-called *res Mancipi*, could only be transferred by a formal ceremony called *mancipatio*: slaves, estates in Roman Italy, cattle, horses, mules, asses, see Watson, *Slave Law*, 103.

⁷ See ibid. 91: certain legal stipulations to increase the master's liability were necessary, since otherwise no one would have been willing to enter a contract with a slave (who could not be sued, since he was not a legal person). Yet 'the rules still gave the master adequate protection and enabled him, when he so wished, to trade through the slave with limited liability' (ibid.).

⁸ Ibid. 94. ⁹ Keith Hopkins, *Conquerors and Slaves. Sociological Studies in Roman History*, Cambridge, 1978, 125.

¹⁰ Keith Bradley, *Slaves and Masters in the Roman Empire. A Study in Social Control*, Brussels 1984, 108. Cf. *Dig.* 15. 1. 7. 4

automatically belong to the master,¹¹ but as an incentive to conduct their business well some masters would give slaves the possibility of eventually purchasing their freedom with the help of the *peculium*.¹² Once freed, slaves could receive a legacy of their *peculium* and take the whole or parts of it with them into freedom.¹³

Although Palestinian rabbinic sources never mention a Jewish equivalent to the Roman *peculium*,¹⁴ rabbis also knew of slaves who did business with their masters' property. Like the Roman jurists, they treat the slave's agency on behalf of his master in the same way as the son's agency on behalf of his father. A ruling in the Tosefta stipulates:

The son who does business with what belongs to his father, and likewise the slave who does business with what belongs to his master, behold, they [the proceeds] belong to the father, behold, they [the proceeds] belong to the master (T. B.Q. 11: 2).

In rabbinic as in Roman law the income gained through the slave's and son's business dealings is the property of the *paterfamilias*, under whose authority they stand.

This principle is elaborated in the Yerushalmi, where a tannaitic ruling, attributed to R. Meir, which stipulates that 'the hand of a slave is like the hand of his master' (יד עבד כיד רבו), reappears in various contexts. For example, y. Peah 4: 6, 18b and y. Qid. 1: 3, 60a discuss the issue whether a slave can acquire possession of a found object for himself. In y. Peah 4: 6, 18b a statement attributed to R. Yochanan refers to M. B.M. 1: 5, where it is stated that

the find of his son or his daughter who are minors, the find of his male or female slave who are Canaanites, the find of his wife, behold, they are his [the householder's]. The find of his son or his daughter who are grown up, the find of his male or female slave who are Israelites, the find of his wife whom he

¹¹ See Watson, *Slave Law*, 106.

¹² Ibid. 95.

¹³ Ibid. 91 with reference to Justinian's Codex 4. 14. 2 (Antoninus, 215 CE). See also ibid. 42 f. and 97, where *Dig.* 33. 8. 8. 7 (Ulpian, book 25 on Sabinus) is quoted.

¹⁴ Against Boaz Cohen, 'Peculium in Jewish and Roman Law', *Proceedings of the American Academy for Jewish Research*, 20 (1951), 141 ff., who maintains that the Hebrew term *segullah* (סגולה), which already appears in the Bible, was equivalent to the Latin *peculium* in its meaning. The term is used infrequently in tannaitic texts for a fund set aside for minor sons with money which usually comes from outsiders, see ibid. 166. Cohen himself notes, however, that references are meagre in both tannaitic and amoraic sources and assumes 'that the institution disappeared in the beginning of the Tannaitic era for intelligible reasons' (ibid. 170).

has divorced, even though he has not given her her marriage settlement, behold these [finds] belong to them.

The Mishnah's stipulation concerning slaves is not further discussed in the Yerushalmi, whereas the one concerning children is. In his comment on the Mishnah R. Yochanan differentiates between those 'grown-up' children who receive support from their father (in which case the find belongs to the father) and others who support themselves (in which case the find belongs to the children).

In Roman society upper- and middle-class sons were dependent on support from their father until they inherited his property.¹⁵ They could not engage in economic enterprises unless they had the necessary capital available. The issue of support was linked to the issue of *patria potestas*, which kept children in their father's *potestate* until they were formally emancipated from him. Children *in potestate*, even if they were adults and lived in separate households, 'had no independent ownership rights: everything they acquired belonged to their *paterfamilias* just as if they had been his slaves'.¹⁶ Accordingly, children *in potestate* could not conduct independent businesses and thereby support themselves, but were dependent on 'more or less regular allowances', the so-called *peculium*, which their fathers granted them.¹⁷

R. Yochanan's equation of children's financial independence from the *paterfamilias* and ownership of the find versus financial dependence and lack of ownership rights is similar to the Roman practice and can, perhaps, be seen as a rabbinic adaptation of it, although neither an exact equivalent to the Roman *peculium* nor the formal emancipation rite which liberated sons from their father's authority are known from ancient Jewish sources.¹⁸ The issue of slaves needed no further comment by rabbis, since slaves would always be supported by the householder until they were manumitted. The Mishnaic differentiation between

¹⁵ Antti Arjava, 'Paternal Power in Late Antiquity', *Journal of Roman Studies*, 88 (1998), 148–9.

¹⁶ Ibid. 148. ¹⁷ Ibid.

¹⁸ Even in Roman society sons' *peculium* and emancipation rite were relevant for (and probably practised by) wealthy families only. Thus Arjava, 'Paternal Power', 152 writes: 'Of course, to the great majority of people, who were engaged in subsistence farming, all this must have seemed irrelevant. If a family had only enough land to maintain one household it was impossible to grant a *peculium* for the children. Nor would it have helped much to emancipate them since they could not be given anything with which to support themselves.'

Hebrew and Canaanite slaves in this regard is unlikely to have been shared by the Yerushalmi, though.

The lack of adherence to the biblical distinction between Hebrew and Canaanite slaves is evident in y. Qid. 1: 3, 60a, where the further detail of a special stipulation by the slave is added to the question of his or his master's ownership of his find. It is discussed whether such a stipulation, in which the slave specifies that he picks up an object on condition that he and not his master owns it, would really make a difference or be disregarded. The question is solved by reference to the above-mentioned statement of R. Meir, that 'the hand of the slave is like the hand of his master', that is, irrespective of the stipulation his master obtains the ownership rights.

In a *baraita* transmitted in another *sugya* in y. Qid. 1: 3, 60a R. Meir's principle is applied to the case of a gift from a third party to the slave himself. In this case, however, sages disagree with R. Meir's opinion that the money would automatically augment the master's funds:

[A] It is self-evident that [if] the slave receives a gift [to be given] from one person to another, from one person to his master, from his master to himself [that he does] not [obtain ownership of it].

[B] From one person to himself—there is a dispute between R. Meir and sages:

[C] [If] someone says, 'Here is this money for you, [on condition] that your master has no right to it', [once] the slave has acquired ownership, his master has acquired ownership, according to [the opinion of] Rabbi Meir.

[D] And sages say: The slave has acquired ownership, [but] his master has not acquired ownership.

According to the sages' view, a slave might be given money as a gift by a third party and use it for his own benefit, to conduct business with it or to redeem himself (cf. M. Qid. 1: 3: a slave may redeem himself with the money given to him by others).¹⁹ This view is very striking, since it seems to stand in contradiction to the Roman principle, shared by some rabbis (cf. the opinion attributed to R. Meir above and in M. Qid. 1: 3), according to which slaves were unable to own any property themselves. If the gift is understood as an addition to the slave's *peculium*, however, the slave's acceptance of it would also be legitimate according to Roman

¹⁹ See also the dispute between R. Meir and sages in T. Qid. 1: 6.

law: 'Once established, the *peculium* will contain not only gifts from the master, but gifts from outsiders and gains from transactions',²⁰ under the condition that such gifts were added to the *peculium* with the master's approval.²¹ The following text is indicative of this:

The *peculium* also comprises what a person has saved through his frugality, or what he earned from anyone as a gift when that person wanted the slave to have it as his own property, as it were (*Dig.* 15. 1. 39, Florentinus, book 11 of *Institutions*).

The same rule applied to inheritances and legacies to slaves, as *Dig.* 15. 1. 7. 5 (Ulpian, book 29 on the Edict) shows. The disagreement between R. Meir and the sages' opinion in the *baraita* quoted above may be due to the fact that unlike Roman jurists rabbis could not recur to the institution of the *peculium* which allowed slaves to (practically) own property which would (theoretically) not be their own.

Whereas both Roman and rabbinic law allowed slaves to accept and make use of gifts they received, they were not allowed to make a gift to a third party from the *peculium* or their master's property. Marcian states that 'the power to make a gift is not allowed them' (*Dig.* 20. 3. 1. 1), and Gaius mentions that 'Julian holds, that even if administration of the *peculium* to the greatest extent was granted him [the slave or son], he does not have the right to make a gift' (*Dig.* 2. 14. 28. 2). Watson thinks that this regulation was meant to prevent the slave from giving money to someone who might use it to purchase and liberate him.²² In *y. M. Shen.* 4: 4, 55a the lack of authority to give a gift to a third party is extended to the child. Like the slave the child does not legally own property and can therefore not transfer it to others without his father's permission.

ACQUISITION OF OWNERSHIP THROUGH SLAVES

In Jewish as in Roman society slaves seem to have been used to sell (and purchase) goods in the marketplace. According to a statement attributed to R. Shimon b. Gamliel in *T. B.Q.* 11: 7, olives may be sold (and

²⁰ Watson, *Slave Law*, 98.

²¹ Cf. *Dig.* 15. 1. 4. 2 (Pomponius, book 7 on Sabinus).

²² Watson, *Slave Law*, 101.

purchased) by slaves (and minor sons) in the market. Wives, on the other hand, are allowed to sell their husbands' goods in a store only, 'for sometimes a man is ashamed to be [seen] selling at the door of his store and gives [his goods] to his wife, and she sells [them for him]'. In all likelihood only those who could not afford slaves would employ their wives as salespersons. In order to avoid the dishonourable work of peddling their goods themselves, poor artisans and farmers are recommended to delegate this work to their wives or minor children, whereas those who were better off could use slaves. All three categories were seen as mere extensions of the householder, who could conduct transactions on his behalf but not be sued themselves.

The slave's position as an intermediary between his master and a third party in business transactions needed clarification with regard to the many legal issues involved. One central question discussed by both rabbis and Roman jurists was to what extent one could acquire ownership through an intermediary. One way of transmitting ownership was through delivery, and 'it seems that the general position in both classical and Justinianic law was that one could acquire ownership by delivery to an outsider only if that person was merely an instrument and not also acting as agent'.²³ According to Gaius,

it appears that we can acquire on no account through free persons whom we have neither subject to our power nor possess in good faith, similarly not through others' slaves in whom we do not have a usufruct or possess lawfully. And this is what is meant by the common statement that we cannot acquire through an outsider (Gaius, *Inst.* 2. 95).

A slave, on the other hand, could well be used as an intermediary, since he was not his own agent but acted under the authority of his master: 'When mancipatio or delivery of *res nec Mancipi* was made to a slave, the slave's master acquired ownership of the property. When a slave entered a contract, whether or not the contract was expressly in the name of the master, the master acquired all rights under the contract.'²⁴

Like Roman jurists, rabbis also discussed the problem of acquisition of ownership through slaves as intermediaries. In the continuation of

²³ Ibid. 105.

²⁴ Ibid. 106.

y. Qid. 1: 3, 60a (quoted above) par. y. M. Shen. 4: 4, 55a a tannaitic tradition, which has a parallel in M. B.M. 8: 3, is quoted:

Let us derive [the answer] from the following: He who asks for a cow and he [the owner] sends it to him through his slave, through his son, [or] through his messenger, {or through the slave, son, or messenger of the borrower, and it [the cow] died, he [the borrower] is exempt. If the borrower said to him: Send [it to me through an intermediary] and he sent it and it died, he [the borrower] is liable. And likewise at the time when he returns it}.²⁵

If the owner acts as the agent who sends off the cow with one of his or the borrower's dependants, the borrower cannot be held responsible in the case of the animal's death. If the borrower is the one who initiates the delivery through an intermediary, however, he is considered responsible in the case of death, even if the intermediary was a dependant of the owner of the cow. In no case is the slave himself considered responsible, since the transfer was conducted in accordance with the involved parties' instructions.

In the Yerushalmi the beginning of the Mishnah ('He who asks for a cow and he sends it to him through his slave, through his son, or through his messenger') is commented upon by the following anonymously transmitted rhetorical question: 'Does this not mean that the slave acquired ownership from his master for another?' In what follows the slave's ability to act as an intermediary in the transfer of property is explicitly said to apply to both Hebrew and Canaanite slaves. At the end of the *sugya* R. Meir's statement that 'the hand of the slave is like the hand of his master' is quoted again.

SLAVES AS OWNERS OF PROPERTY

As already indicated in connection with money given to a slave as a gift from a third party (cf. y. Qid. 1: 3, 60a above), it seems that under certain conditions and with particular stipulations the slave could possess property himself. The following Yerushalmi text deals with priests' slaves commissioned to purchase other slaves:

²⁵ '{or through the slave . . . returns it}': continuation of the Mishnah passage which does not appear in the Yerushalmi, but is necessary for understanding the argument.

[A] R. Yaqob b. Acha, R. Hela in the name of R. Eleazar: ... The Mishnah [which allows priests' slaves to eat heave offering] speaks of a slave who purchased slaves on condition that his master [a priest] will have authority over them. But in the case of a slave who purchased slaves on condition that his master will not²⁶ have authority over them, he [the purchased slave] is his [the purchasing slave's] possession [rather than the priest's, and may therefore not eat heave offering].

[B] R. Yaqob b. Acha, R. Hela in the name of R. Eleazar: In the case of a slave who bought slaves on condition that his master will not have authority over them, and he died, whoever seizes them first acquires ownership over them (y. Yeb. 7: 1, 8a).²⁷

As we have seen above, in Roman law *res mancipii*, to which slaves belonged, could only be transferred on the basis of a formal ceremony, the so-called *mancipatio*.²⁸ This ceremony was also necessary in the case of slaves who acted as purchasers of other slaves on behalf of their master. 'When mancipatio ... was made to a slave, the slave's master acquired ownership of the property.'²⁹ Perhaps the stipulation in the first statement transmitted in y. Yeb. 7: 1, 8a, that the master should have authority over the slave, refers to such a formality. If the formal transaction was missing and a slave obtained other slaves without the knowledge of his master, the master would not acquire ownership of them (cf. *Dig.* 41. 2. 24, Javolenus, book 14 of letters). Whether such a usucaption of slaves without the master's knowledge, which was illegal according to Roman law, is envisioned in the second half of the Yerushalmi's first statement, or whether rabbis assumed that such a stipulation would be made with the master's knowledge and consent, must remain uncertain.³⁰ The second statement shows, however, that

²⁶ Although the Leiden MS and the editio princeps Venice lack the negation, the logic of the argumentation makes it necessary. The Yalqut already adds לֹא ('not'), see Peter Schäfer and Hans-Jürgen Becker (eds.), *Synopse zum Talmud Yerushalmi*, vol. III: *Nashim*, Texts and Studies in Ancient Judaism 67, Tübingen 1998, ad loc. See also Pnei Moshe's commentary on the text.

²⁷ They are considered ownerless (הפקר), cf. Pnei Moshe.

²⁸ See Watson, *Slave Law*, 105.

²⁹ Ibid. 106.

³⁰ William W. Buckland, *The Roman Law of Slavery: The Condition of the Slavery in Private Law from Augustus to Justinian* Cambridge, 1970 (1st pub. 1908), 133, refers to a text attributed to the jurist Paul, who 'holds that we do not acquire possession through our slaves unless they intend to acquire to us' (cf. *Dig.* 41. 2. 1. 19). This opinion is very similar to the one expressed in the Talmud. Buckland concludes, however: 'It is generally agreed that this text, making the effect dependent on the will of the slave, is not good law for the classical age' (ibid.).

rabbis considered such slaves ownerless at least after the purchaser had died.

In conclusion, it seems, then, that the general notion that slaves do not have any ownership rights and that everything they possess belongs to their master seems to have been common knowledge in Roman Palestine. It also appears in the form of an Aramaic proverb in Gen. R. 67: 5 (p. 759 in the Theodor–Albeck edn.): [עבדא ומה דייליה למאריה] ‘The slave and what is his belongs to his master.’³¹ Whether the money they used in the business they conducted on behalf of their master was called *peculium* or not was probably less important than the fact that actual property ownership and financial independence were impossible for them. Despite this fact, they would nevertheless sometimes be able to make liberal use of the money which their master or others had granted them.³²

³¹ The proverb is in Aramaic, the rest of the text (which is a midrash on Gen. 27: 37) in Hebrew. See also Tanh. B. Bereshit 6: 24 (Toledot), where an expanded form of the saying is transmitted: ‘whatever a slave acquires, he acquires for his master... whatever the slave has, belongs to the master’.

³² Cf. e.g. the story transmitted in y. Shab. 6: 9, 8c about ‘Germana, the slave of R. Yudah the Patriarch’, who ‘went out and wanted to lend money to R. Ila’. Whether or not his master had instructed him to do so is not specified here. The פֶּרֶס (‘portion’) given to slaves, according to a few rabbinic sources (cf. e.g. M. Abot 1: 3, y. Taan. 1: 1, 63c) was not a monetary allowance but ‘food allocated to a slave’, as Elias J. Bickerman, ‘The Maxim of Antigonos of Socho’, *Harvard Theological Review*, 44 (1951), 162 has convincingly argued.

13

The Location of Slaves in Ancient Jewish Society

ALTHOUGH the actual number and percentage of slaves in ancient Jewish society cannot be determined any more, one can hypothesize about the social and economic location of slaves amongst the Jewish inhabitants of Roman Palestine. One way to arrive at such a hypothesis is to look at the representations of slave ownership and slaves' activities in ancient Jewish sources. These sources are scarce, biased, and written from a particular perspective. They have also been transformed continuously in the long processes of transmission. Therefore an approach based on the evidence of the sources would be impressionistic at best. Another, complementary way to assess slaves' location is to look at their structural place in other Roman provinces and to use that model as an analogy. The problem with such an approach is that it may be too generalizing, not taking local differences into account. If both of these approaches are combined, they may yield results which may approximate historical reality, although certainty can never be reached in this regard.

OWNERSHIP OF SLAVES

Who are the slave owners represented in ancient Jewish sources? What is their status in society and which professions do they have? How many slaves are associated with them? Before we look at the evidence it is necessary to stress that the literary sources are all written from the perspective of the literate urban intellectual. Therefore certain sectors of society, especially the rural sector in which the vast majority of the population was occupied, may be vastly underrepresented. This limited

perspective can therefore lead to false assumptions concerning the location of slaves in ancient Jewish society.

In the Bible the patriarchs are represented as owners of slaves. Abraham, Isaac, and Jacob are all said to have possessed more or less large numbers of slaves. The patriarchs were nomads who moved their households from one place to another and were engaged in the raising of livestock. Abraham allegedly acquired his slaves in Egypt, after he became wealthy as a consequence of his wife's beauty and the favours which Pharaoh granted them: 'And because of her [Sarai], it went well with Abram; he acquired sheep, oxen, asses, male and female slaves, she-asses, and camels' (Gen. 12: 16). After acquiring a large household, Abraham is said to have left Egypt and wandered through the Negev towards Bethel, his former home, where his tent had been set up (13: 3). Since Lot, Abraham's companion, had a large amount of cattle, tents, and probably slaves as well, they had to settle at a certain distance from each other to have a large enough area available to support their herds. Abraham is said to have been guided towards the Hebron area by God and decides to settle there (see 13: 5–12). What the slaves' work consisted of is never specified, but we must assume that they were occupied as herdsmen and cattle breeders, grew crops and vegetables, processed food for the household, and served as domestics. Abraham's steward, Dammeselek Eliezer, who was set over his household, is singled out: Abraham allegedly wanted to install him as his heir when he was childless (see 15: 2–3).¹ Singled out is also another slave, Hagar, the maidservant of Abraham's wife. Her task was to serve as a sexual substitute for her mistress, to bear her master's children (see 16: 4). In these traditions Abraham is presented as a very wealthy man whose number of slaves increased together with his cattle and the area of land he temporarily settled on. Some of his slaves had important, specialized tasks, whereas the majority of them were occupied with ordinary farming and household work.

Abraham's son Isaac is depicted as a slave owner as well. The assumption probably was that he was given slaves by his father and later inherited the latter's slaves. Isaac settled in Gera, in the land of the

¹ A 'senior servant of his household', who remains anonymous, is also mentioned in Gen. 24: 2 ff. Whether he was identical with the earlier-mentioned Dammeselek Eliezer remains unclear. This senior servant, who 'had charge of all that he owned', had the task of finding and bringing home a wife for Abraham's son Isaac.

Philistines, and became wealthy: 'Isaac sowed in the land and reaped a hundredfold the same year. The Lord blessed him, and the man grew richer and richer until he was very wealthy: he acquired flocks and herds, and a large household . . .' (Gen. 26: 12). Here the same pattern which we already observed in connection with Abraham emerges: the more wealthy Isaac becomes, the greater his household and number of slaves. One of the tasks of his slaves, mentioned in the story, is the reopening of the wells which his father's slaves had dug and which had been closed by the Philistines after Abraham's death (26: 15, 19). The motif of increasing wealth accompanied by an increasingly large household consisting of cattle and slaves is repeated in the case of Jacob as well: 'So the man [Jacob] grew exceedingly prosperous, and came to own large flocks, maidservants and manservants, camels and asses' (Gen. 32: 5). According to the biblical accounts, in a nomadic society with temporary settlement patterns, organized according to tribes, slaves played an important role in the household economy. They enabled a large self-supplying household of cattle breeders to function properly, fulfilled significant domestic tasks, and enabled their owner to present himself as a wealthy and prominent man. It is also possible, however, that later conditions at a time when the tribes were properly settled and engaged in agriculture are reflected here.

The perspective of a slave who came to riches and ended up more prominent than the most highly respected free persons, is presented in the Joseph story (Gen. 37–50). By becoming the slave of Potiphar, Pharaoh's chief steward, and later of Pharaoh himself, Joseph is able to advance within the servile hierarchy. As the highest ranking slave at Pharaoh's court he is said to have been only second in importance to Pharaoh himself (cf. 41: 40). That Pharaoh's household would have had numerous slaves at different ranks is self-evident. That these slaves could advance in status is also understandable. In the case of Joseph the depiction of his fast elevation to rank and riches is exaggerated, though, and serves the literary and ideological purposes of the story.

Other royal houses with which a slave *familia* is associated are those of Saul, David, Solomon, and Amon.² We may assume that all Israelite

² Saul: 2 Sam. 9: 2: Ziba, a slave of the house of Saul, is summoned to David; he possesses an intimate knowledge of family relationships within the royal family. David: 2 Sam. 6: 20–2: David acts shamefully in front of his slaves; Solomon: 1 Kgs. 9: 22:

kings had large quantities of slaves within their households, which could become quite dangerous at times, leading to murder and conspiracy, as the example of Amon shows (2 Kgs. 21: 23). The most important slaves of the royal household, like Ziba the slave of Saul, are said to have owned slaves themselves.³

Another wealthy slave owner mentioned in the Bible is Job, of whom it is reported that 'his possessions were seven thousand sheep, three thousand camels, five hundred yoke of oxen and five hundred she-asses, and a very large household' (Job 1: 3). Job boasts of never having wronged his slaves and of having listened to their complaints (31: 13). Once bad fate had struck him, however, these same slaves looked down on him: 'My male and female slaves regard me as a stranger; I am an outsider to them. I summon my servant but he does not respond; I must myself entreat him' (Job 19: 15–16). The owner's authority over slaves obviously depended on his own status: if his socio-economic status decreased through ill-fortune, he lost the respect his slaves had formerly granted him.

All of the biblical slave owners presented so far were wealthy, prominent men. Other, less prominent slaveholders are never mentioned explicitly. Yet the legal portions of the Torah as well as sapiential and prophetic writings contain numerous recommendations addressed to the slave-owning strata of society. Like the named slave owners these texts' anonymous addressees seem to have belonged to the upper echelons of society. They were the creditors who enslaved the poor peasants unable to repay their debts (cf. Neh. 5: 4–5),⁴ the rich men who bought their fellow-Israelites' daughters and used them as their concubines (cf. Exod. 21: 7–11), Israelites who bought foreign slaves and employed them on their fields perpetually (cf. Lev. 25: 44–6). Whether and to what extent people of lesser means were able to own slaves in biblical times remains unclear.

foreign slaves make up Solomon's foreign labour force; 1 Kgs. 11: 26: Jeroboam, Solomon's slave, 'raised his hand against the king'; Amon: 2 Kgs. 21: 23: his 'slaves conspired against him; and they killed the king in his palace'.

³ See 2 Sam. 9: 10.

⁴ On debt slavery in ancient Israel see Gregory C. Chirichigno, *Debt-Slavery in Israel and the Ancient Near East*, *Journal for the Study of the Old Testament*, suppl. ser. 141, Sheffield 1993, 132 ff.

Besides individual slave owners, ancient Israelite society may have known the institution of state slavery, as Isaac Mendelsohn has argued. Enslaved war captives may have been 'employed by David and Solomon in the smelter refineries of Ezion-Geber: Elar'.⁵ The argument rests on a hypothesis, though: Mendelsohn assumes that the working conditions in these factories, remains of which were found during archaeological excavations more than sixty years ago, would allow for slave labour only. He quotes the excavator Nelson Glueck in this regard: 'The fumes and smoke from the smelter-refinery alone, coupled with the severity of the natural conditions, would have made life there intolerable to the free-born, and impossible for slaves. The welfare of the latter, however, would hardly have been taken into consideration.'⁶ If the state had a large number of cost-free slaves available, this assumption would be well founded. Mendelsohn and Glueck believe that most of these slaves were war captives and their descendants, supplemented by the Canaanites and Edomites whom the Israelite kings had enslaved and sent to the mines.⁷ The existence of the institution of state slavery 'presupposes the existence of a state and the maintenance of extensive crown properties where slaves could be profitably employed'.⁸ Such a state with centralized power emerged under the rulerships of David and Solomon. They took large quantities of prisoners of war and sent them to the state-owned mines.⁹ Mendelsohn believes that state slavery persisted until the end of the Judaeen kingdom and that the descendants of these slaves were still seen as a special group in post-exilic times.¹⁰

Jewish slave owners are also known to us from the Elephantine papyri, which stem from the Jewish military colony at Elephantine, Egypt, in the fifth century BCE. At least some of the Jewish inhabitants of this colony seem to have owned slaves, whose exact numbers are not specified. Interestingly, even women are presented as slave owners here. For example, in a loan contract dated to 456 BCE Ya'uhan daughter of Meshullak offers her slaves as security for a loan of four shekels which she received from Meshullam b. Zakkur.¹¹ The document indicates that

⁵ Isaac Mendelsohn, *Slavery in the Ancient Near East*, New York 1949, 3.

⁶ Isaac Mendelsohn, 'State Slavery in Ancient Palestine', *Bulletin of the American Schools of Oriental Research*, 85 (1942), 14.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid. 16.

¹⁰ Ibid. 17 with references.

¹¹ A. Cowley (ed.), *Aramaic Papyri of the Fifth Century B.C.*, Osnabrück 1967 (1st pub. Oxford, 1923), no. 10.

she also owned precious metals (silver and gold, bronze and iron) and was engaged in growing grains (barley, spelt), that is, she was an independent businesswoman. Cowley suggested translating an unclear term (נשך) with 'spinster', which would mean that she was never married and may have inherited property from her father. A similar pledge against a loan in which slaves serve as security was written on behalf of Ananiah b. Haggai who had borrowed spelt from someone.¹² The lender is allowed to seize his children's property, including slaves, if he should die before the loan is repaid.

In a contract dated to 411 BCE two brothers, Mahseiah and Yedonia, shared two slaves they had inherited from their deceased mother Mibtahiah.¹³ Two more slaves, the mother of these slaves and her son, are stipulated to be shared between them later. The inherited slaves were marked with a tattoo, identifying them as Mibtahiah's.¹⁴ How many slaves the brothers already owned remains unknown. Since their mother seems to have owned four slaves only, and since the inheritance of one slave was considered important, we may assume that the number of slaves they possessed was relatively small.

The case of Ananiah b. Azariah, who married the Egyptian slave girl Tamut owned by Meshullam, has already been discussed above.¹⁵ Tamut and her daughter Yehoyishma are later manumitted by Meshullam.¹⁶ Meshullam b. Zakkur seems to have owned other slaves as well, since another document records the transfer of his slave Yedoniah to Uriah on condition that he be liberated.¹⁷ About the function of these slaves within the military colony of Elephantine one can only speculate. The Jewish inhabitants of the colony do not seem to have possessed large landholdings which they had to cultivate. It is most likely that they owned a few slaves each who worked within the household economy, that is, they probably grew crops and vegetables to sustain the family, cooked and did other household tasks. This would also explain the

¹² Emil G. Kraeling (ed.), *The Brooklyn Museum Aramaic Papyri. New Documents of the Fifth Century B.C. from the Jewish Colony at Elephantine*, New Haven 1953, no. 11.

¹³ Cowley, *Aramaic Papyri*, no. 28. On this text see also Bezalel Porton, *Archives from Elephantine: The Life of an Ancient Jewish Military Colony*, Berkeley and Los Angeles 1968, 76.

¹⁴ Cowley, *Aramaic Papyri*, no. 28, lines 4–5 and his explanation *ibid.* 105.

¹⁵ Kraeling, *Aramaic Papyri*, no. 2. ¹⁶ *Ibid.* no. 5.

¹⁷ *Ibid.* no. 8.

obviously close relationship between slave owners and (other people's) slaves which could even lead to marriage.

Before we discuss representations of slave owners in Jewish literary sources from Hellenistic and Roman times, the so-called Edfu ostraca, that is, ostraca from Apollinopolis Magna, which became an exclusively Jewish settlement in the early Roman period, need to be mentioned briefly. A number of these Aramaic ostraca, dated to the early second century CE, were written on behalf of slaves who had to pay the Jewish tax.¹⁸ It is uncertain whether the slaves or their owners were Jewish, but the editors opt for the latter possibility: 'It is likely that the obligation of slaves to pay the Jewish tax was imposed on their masters, since the slaves, as a rule, had no income on their own.'¹⁹ The masters probably had to pay the tax for their Jewish and non-Jewish slaves alike, since they were all members of their *familia*.²⁰ The tax must have been a heavy burden on the masters, even if they were relatively rich.

As already mentioned above, instructions concerning slaves are included in the Damascus Document from Qumran, a phenomenon which suggests that the Qumran community or some of its external affiliates possessed slaves, despite Philo's and Josephus' allegations to the contrary. The possession of slaves by the Qumran community is also indicated by the so-called Khirbet Qumran ostrakon.²¹ This Hebrew ostrakon, which the editors date to the Late Herodian period, that is, the middle of the first century CE, is the deed of a gift in which Honi, who is about to enter the Qumran community or has ended his year as a neophyte (cf. line 8: 'When he fulfils [his oath] to the community') gives away all of his property, including the slave Hisday from Holon, to Eleazar b. Nachmani, who was probably 'a major officer of the community'.²² The editors write: 'The deed is not a grant to a family member, but, we believe, to a member of the community living where the

¹⁸ Victor A. Tcherikover and Alexander Fuks, (eds.). *Corpus Papyrorum Judaicarum*, Cambridge, Mass., 1964, vol. 3, nos. 201, 206, 207, 212, 218, 229.

¹⁹ Ibid. 114. This becomes clear in no. 218, where 'the tax is paid by a member of a Jewish family for a maid belonging to this family' (ibid.).

²⁰ Ibid.

²¹ Stephen J. Pfann, *Cryptic Texts: Miscellanea*, part 1, by Philip Alexander *et al.*, Discoveries in the Judaean Desert 36, Oxford 2000, 497–507.

²² Ibid. 504. The editors indicate that donating one's property to the community was common practice, as indicated by 1QS 6. 18–23.

ostrakon was found, namely the bursar of the community.²³ If so, we may assume that the community would have 'inherited' the slaves of all of its formerly slave-owning members who entered the sect. What the community leaders did with these slaves remains unknown. They may have sold them and deposited the money in the common treasury or used them for communal purposes. Honi, who entered the community and gave away his property, also possessed a house, figs, and olives. Since only one slave is mentioned here, he seems to have been a slave owner of modest means.

Greek Jewish literature elaborates upon the biblical presentation of the patriarchs as owners of slaves.²⁴ But slave owners not mentioned in the Bible are mentioned as well. For example, Judith is presented as the owner of a personal assistant who accompanied her everywhere and stayed with her until she finally manumitted her before her death at the age of a hundred and five years.²⁵ This maid 'had charge over all of her property', like Abraham's steward and Joseph in the house of Pharaoh.²⁶ She is said to have performed various different tasks for Judith and is presented as her most important and intimate companion. Judith allegedly owned other slaves as well, whom she had inherited from her deceased husband, together with her estate.²⁷ Other biblical women were believed to have had such slave companions too: Esther, who allegedly took two maids with her when she entered the king's palace: 'on one she leaned for support, as befitted a lady, while the other followed, bearing her train';²⁸ Susanna, whose maids accompanied her to the garden;²⁹ and Aseneth who lives with seven young women in her tower.³⁰ That young women of distinguished families would have had their own personal maidservants seems to have been the common assumption of upper-class writers in Hellenistic and Roman times. Glancy has suggested that in the literary representations the maids serve as buffers guarding the woman's honour.³¹ Once they are absent,

²³ Pfann, *Cryptic Texts*, 505.

²⁴ See e.g. Test. Abr. 15: 5: when Abraham returns home after his heavenly journey, his wife and son as well as his slaves welcome him.

²⁵ Judith 16: 23.

²⁶ Ibid. 8: 9–10.

²⁷ Ibid. 8: 7.

²⁸ Rest of Esther 15: 2.

²⁹ Susanna 15 ff

³⁰ Jos. As. 2: 10–11.

³¹ Jennifer A. Glancy, 'The Mistress-Slave Dialectic: Paradoxes of Slavery in Three LXX Narratives', *Journal for the Study of the Old Testament*, 72 (1996), 77–80.

as in the case of Susanna, the woman's private sphere becomes vulnerable to intrusion and the family's integrity is threatened.³²

In the book of Tobit slaves are presented as a common ingredient of the (upper-class) household as well. Raguel had many servants, both male and female, who are said to have fulfilled various personal tasks, from being messengers to digging graves, collecting money, and delivering invitations.³³ When his daughter married, he allegedly handed over to her bridegroom slaves together with cattle, clothes, and household items as part of the dowry.³⁴

Philo never identifies any slave owners by name. He provides general instructions and recommendations to slave owners only, a class to which he himself seems to have belonged as well. As already pointed out, Philo does not condemn the institution of slavery but considers it a social necessity.³⁵ He merely criticizes masters who treat their slaves, who may well have been spiritually superior to them, in a humiliating way.³⁶ From the many times in which he deals with the issue of slaves and their treatment we may conclude that he writes for an upper-class audience for whom slaves were a common ingredient of everyday life and who enabled them to live a life of leisure and luxury. Josephus clearly addresses an audience of upper-class slave owners as well. The slave owners presented in his works are almost all members of the royal family, including women who had their personal slave confidantes.³⁷ The slaves of king Herod are called οἱ βασιλικοὶ δοῦλοι, 'royal slaves' (cf. *Bell.* 2. 57) and were probably distinguished as such from other, ordinary slaves. As a member of an upper-class family Josephus' mother

³² In this novel Susanna is said to have been accompanied by her two maids into the garden to take a bath (*Susanna* 15 ff.). The fact that she later sent her maids away is said to have had bad consequences: elders who tried to rape her would accuse her of adultery. On the intimate relationships between women and their female servants in Jewish novellas see also Ross S. Kraemer, 'Jewish Mothers and Daughters in the Greco-Roman World', in Shaye J. D. Cohen (ed.), *The Jewish Family in Antiquity*, Brown Judaic Studies 289, Atlanta 1993, 95.

³³ Tobit 8: 9–14; 9: 1.

³⁴ Ibid. 10: 10.

³⁵ Philo, *De spec. leg.* 2. 123.

³⁶ e.g. *ibid.* 2: 90–1.

³⁷ See e.g. *Bell.* 1. 479: slaves of Herod's sons; *Bell.* 1: 584–6: Pheroras' slaves; *Bell.* 2. 57: Herod's slaves; *Ant.* 17. 93: slaves of Antipater's mother; *Ant.* 15. 226: Mariamne's eunuch; *Ant.* 12. 203 ff.: Hyrcanus' father's slave.

is reported to have had handmaidens as well,³⁸ and Josephus himself employed a slave tutor to educate his son.³⁹

Only in narrative texts do rabbis explicitly mention slave owners of their time. Like Philo's philosophical treatises halakhic texts often deal with the issue of slavery in a general and theoretical way. They provide instructions for the proper treatment of slaves and seem to address an audience of which at least some will have been slaveholders. The fact that rabbis deal with various issues concerning slavery in much detail indicates that slavery was an important aspect of their and their fellow-Jews' daily life. This does not necessarily mean that all rabbis, rabbinical students, and sympathizers were slave owners. But it means that rabbis adopted the perspective of the slave-owning strata of society, which was probably the common perspective of the freeborn person in ancient times.

Since the Mishnah and Tosefta as well as tannaitic Midrashim are mainly halakhic in nature, they contain few story traditions in which slave owners are named. Most of the narrative traditions transmitted in these documents deal with rabbis. Therefore it is understandable that, with few exceptions, the slave owners mentioned there are rabbis themselves.⁴⁰ Yet very few rabbis are presented as slaveholders in tannaitic texts. The most prominent slaveholder, already mentioned several times above, is Rabban Gamliel, who is repeatedly presented together with his slave Tabi (cf. *M. Ber.* 2: 7; *M. Suk.* 2: 1; *M. Pes.* 7: 2; *T. Pes.* 2: 15). In addition, his sons Yehudah and Hillel were believed to have had slaves available to carry their golden slippers on the Sabbath (cf. *T. M.Q.* 2: 16). The family of R. Gamliel was probably the most prominent rabbinic family of its time. That later rabbis would associate slaves with them is not amazing.

Does the fact that other rabbis are never presented as slave owners in these texts mean that in the tannaitic period only the most wealthy and prominent rabbis owned slaves and that most rabbis were not wealthy? Or that few rabbis were owners of large estates for whom the employment of slaves was advantageous? Would rabbis disapprove of the luxury of having domestic servants serve their meals and mend their clothes?

³⁸ Cf. *Bell.* 5.545.

³⁹ *Vita* 429.

⁴⁰ Amongst the exceptions are the female slave of a prostitute who functions as her doorkeeper (*Sifre Num.* 115) and the slave woman of a tax collector who allegedly aborted her child (*T. Ahil.* 16:13).

On the other hand, would they not be concerned about losing their status as prominent men if no slaves accompanied them to the market? According to a story tradition in T. Peah 4: 10, the possession of a slave was seen as a necessity for someone of good family background. In Roman society members of the intellectual elite, whether jurists, bishops, or philosophers, would be slave owners. As already pointed out above, late Roman intellectuals such as Libanius, John Chrysostom, and Augustine took the possession of household slaves for granted and commiserated with those of their colleagues who possessed only a few slaves.⁴¹ Yet in contrast to Roman Italy mass slavery did not exist in Roman Palestine. Therefore slave-ownership would have been less likely for all but the highest strata of society. The patriarch, who had frequent contacts with Romans, would have certainly owned slaves. But for ordinary rabbis slave ownership may have been less likely.

The evidence concerning tannaitic rabbis' slave ownership stands in obvious contradiction to the view that most tannaitic rabbis were well-to-do. According to Shaye Cohen, most tannaim seem to have belonged to the landowning class in antiquity.⁴² Some rabbis are explicitly presented as landowners. In addition, rabbis 'share not only the prejudices but also the concerns of the landowning class'.⁴³ They adopt the position of the wealthy, although 'it is unlikely that all the tannaim were prosperous landowners' themselves.⁴⁴ But they are also not presented as particularly poor. In order to find time to study Torah, rabbinical students and rabbis must have had the necessary means to support themselves.⁴⁵ Although rabbis encouraged their fellow-Jews to help the poor, no charitable institutions which would have maintained Torah scholars existed in antiquity. Altogether, Cohen concludes: 'In the period before Judah the patriarch the rabbis were well-to-do, and interested themselves in questions which were important to the landed classes.'⁴⁶

⁴¹ See Ramsay MacMullen, *Changes in the Roman Empire: Essays in the Ordinary*, Princeton 1990, 239; Geoffrey S. Nathan, *The Family in Late Antiquity: The Rise of Christianity and the Endurance of Tradition*, London and New York 2000, 169.

⁴² Shaye J. D. Cohen, 'The Rabbi in Second-Century Jewish Society', in *The Cambridge History of Judaism*, vol. 3, Cambridge 1999, 930–6.

⁴³ Ibid. 931.

⁴⁴ Ibid.

⁴⁵ Ibid. 934.

⁴⁶ Ibid. 936. See also Hayim Lapin, *Early Rabbinic Civil Law and the Social History of Roman Galilee: A Study of Mishnah Tractate Baba Mesia*, Atlanta 1995, 238: 'As a collection of materials pertaining to civil law, the interests and problems that m. Baba' Mesia' addresses most consistently are those of the landholding town dwellers.'

It is possible, of course, that rabbinic landowners had their land worked by tenant farmers and day labourers rather than by slaves. But why would they discuss slavery in such detail in the halakhic portions of their documents then? In our opinion Cohen's proposition that most tannaim were well-to-do is based on wrong assumptions. First, references to wealthy, land-owning rabbis are very scarce in tannaitic sources. Secondly, the phenomenon that rabbis discuss slavery from the point of view of the master rather than the slave does not necessarily imply that they belonged to the slave-owning classes themselves. The middle strata of the freeborn would have adopted upper-class views in this regard. They would have been eager to distinguish themselves from slaves, some of whom may have had a social status higher than their own (for example, the patriarch's slaves, as pointed out above). Therefore the fact that rabbis provide instructions to slave owners does not allow for the conclusion that most rabbis were land- and slave owners themselves. All we can say is that the most prominent tannaitic family is presented as wealthy slave-owning landlords. In all likelihood, some other rabbis of the first two centuries were slave owners as well. What percentage of rabbis owned slaves and how many they owned is an unanswerable question, though.

The comparison between tannaitic and amoraic sources is interesting in this regard. In amoraic sources more rabbis are presented as slave owners than in tannaitic texts. Not only R. Gamliel⁴⁷ and R. Yudah/n the patriarch⁴⁸ but also more ordinary rabbis such as R. Tabla (y. Git. 4: 6, 46a), R. Yitzchaq of Haban (ibid.), Abba b. Ada (ibid.), R. Eliezer (y. Ber. 2: 7, 5b: *baraita*), Rabba b. Zutra (y. Git. 4: 4, 45d), and R. Yochanan (y. Ket. 5: 5, 30a) appear as slave owners here. The story traditions usually mention one particular (anonymous) slave or maidservant in connection with each of them. This may be due to the fact that they deal with specific legal problems which occurred in connection with a slave. The exact number of slaves which these rabbis owned remains uncertain.

The phenomenon that amoraic sources associate more rabbis with slaves than tannaitic sources may partly be due to the greater number of narrative traditions integrated into the Talmud Yerushalmi. In addition, the rabbinic movement had increased so that more traditions about

⁴⁷ See y. Ber. 2: 7, 5b; y. Nid. 1: 5, 49b; y. Er. 10: 1, 26a; y. Suk. 2: 1, 52d; y. Shebu. 5: 7, 36c; y. Ket. 3: 10, 28a; Lev. R. 19: 4

⁴⁸ See y. Shab. 6: 9, 8c; y. Yoma 8: 5, 45b; y. A.Z. 2: 10, 42a.

rabbis circulated. The Yerushalmi generally provides more details, such as references to rabbis' professions. Another reason may be the greater presence of rabbis in cities in amoraic times. Proportionately more rabbis lived in the cities of Roman Palestine in late antiquity than in the earlier centuries.⁴⁹ Together with Graeco-Roman philosophers, rhetors, jurists, and Christian theologians they constituted the urban elites. As such they may have been more interested in presenting themselves as prominent men than village rabbis. And prominent men were customarily served by and accompanied by slaves in Roman society. To some extent students seem to have fulfilled this role for rabbis, as already pointed out above. Nevertheless, at least some urban rabbis will have owned slaves as well, whose tasks are usually not specified but were probably located in the domestic sphere.

Another set of slave owners mentioned in rabbinic sources are priests. Temple slaves probably existed in First Temple times already, as Mendelsohn has pointed out.⁵⁰ They are mentioned in the books of Ezra and Nehemiah as returnees to Judah after the Babylonian Exile.⁵¹ Although rabbinic sources cannot be taken as historical evidence on Temple slaves in the period of the Second Temple, it is likely that the institution continued at that time. Many Greek temples also owned slaves, such as the Apollo shrine at Delphi, and temple slaves are mentioned in Greek tragedies.⁵²

The assumption of temple slaves in the Second Temple period is supported by references to the high priestly slaves in Josephus' works. Josephus writes, for example, that at the time of Felix, Agrippa, and Nero, 'such was the shamelessness and effrontery which possessed the high priests that they actually were so brazen as to send slaves to the threshing floors to receive the tithes that were due to the priests,

⁴⁹ See Lee I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity*, Jerusalem 1989, 25; Hezser, *Social Structure*, 157–65; Hayim Lapin, 'Rabbis and Cities in Later Roman Palestine: The Literary Evidence', *Journal of Jewish Studies*, 50 (1999), 187–207; idem, 'Rabbis and Cities: Some Aspects of the Rabbinic Movement in its Graeco-Roman Environment', in Peter Schäfer and Catherine Hezser (eds.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 2, Texts and Studies in Ancient Judaism 79, Tübingen 2000, 51–80.

⁵⁰ Mendelsohn, 'State Slavery', 14. On *netinim* see also Solomon Zucrow, *Women, Slaves and the Ignorant in Rabbinic Literature*, Boston 1932, 161–3.

⁵¹ Ezra 2: 43 ff. and Neh. 7: 46 ff., where they are mentioned together with the descendants of Solomon's slaves.

⁵² See DuBois, *Slaves*, 149–50.

with the result that the poorer priests starved to death' (*Ant.* 20. 181). Later he writes in the same vein:

But [the high priest] Ananias had servants who were utter rascals and who, combining operations with the most reckless men, would go to the threshing floors and take by force the tithes of the priests; nor did they refrain from beating those who refused to give. The high priests were guilty of the same practices as the slaves, and no one could stop them. So it happened that those of the priests who in olden days were maintained by the tithes now starved to death (*Ant.* 20. 207).

Priests were forbidden to go to the threshing floors themselves since their fellow-Jews would then have felt obliged to give them tithes. By sending their slaves the high priests are said to have been able to circumvent this rule and to obtain the grain for themselves, with the result that the poorer priests would be left empty-handed.

Most rabbinic references to Temple priests appear in the Mishnah and Tosefta tractate *Arakhin* which deals with vows and the redemption from obligations. The Mishnah rules that while Canaanite slaves may be dedicated to the Temple, one's children or Hebrew slaves may not, since the *paterfamilias* does not have perpetual authority over them, for they will eventually become adult or be manumitted (M. Ar. 8: 4–5). The Tosefta discusses further details concerning dedicated slaves (cf. T. Ar. 3: 8 and 4:7) and suggests that even a partnership between the Temple and an individual master, each of whom would own half of the slave, would be possible (T. Ar. 4: 29). The other issue which rabbis discuss in connection with priests' slaves is their participation in the eating of the heave offering (cf. M. Zeb. 5: 6; T. Ter. 10: 8). Both of these issues were suggested by the biblical accounts and will have been of merely theoretical value after 70 CE. There is no doubt that rabbis' priestly contemporaries will have possessed slaves like everyone else, but the particular institution of Temple slavery will have ended with the destruction of the Second Temple, just as the institution of royal slaves ended with the monarchy.

FUNCTIONS OF SLAVES

Which functions are associated with slaves in the literary sources? In connection with what types of work are slaves represented? Are

recurrent patterns recognizable, and is there a change in representation from biblical to Hellenistic and Roman times? Our problem, again, is the scarceness and randomness of the available evidence. We do not know how representative the sources are: Is a slave mentioned in connection with a particular task because it is exceptional? Or can this task be considered an example of slaves' ordinary work? Repetitive references to the same phenomenon in different yet roughly contemporary texts as well as analogies from Graeco-Roman culture can help in this regard. Nevertheless, only hypotheses based on broad patterns can be reached in answer to the question of slaves' location in ancient Jewish society. Since the relevant texts have already been discussed in earlier chapters, the results will merely be summarized here.

In the Hebrew Bible slaves are associated with wealthy, cattle-breeding and landowning masters for whom they fulfilled a variety of functions. Some slaves were set over the estates as supervisors while the vast majority are likely to have worked as shepherds or farmhands. Both male and female slaves were used in the domestic sphere. There, too, differences between those who performed simple, ordinary household tasks and others who were their masters' confidants and lovers existed. Altogether, slaves seem to have fulfilled important roles in wealthy, upper-class households. Besides the work and services which they provided, they seem to have functioned as status symbols which indicated their master's prominence and high social status to the outside. Besides individual slave ownership, the institutions of royal slaves and Temple slaves existed in the monarchic period and the time of the First and Second Temple, respectively. State slaves who were war captives seem to have been employed in larger projects such as the royal mines, whereas Temple slaves will have catered to the needs of the Temple and its guardians, the priests.

Mendelsohn states that there are no references to the existence of a large agricultural slave population in ancient Syria and Palestine: 'The circumstances which led to the creation of an agricultural slave population in Rome, namely, the concentration of vast lands in the hands of a few landowners and the existence of large numbers of foreign slaves, were absent in the Ancient Near East.'⁵³ He assumes that the land was leased to tenant farmers or cultivated by share croppers instead and

⁵³ Mendelsohn, *Slavery*, 111.

reaches the conclusion 'that although the more prosperous farmers, like the upper middle class in the cities, owned slaves who were employed on the land, slave labour was not a decisive factor in the agricultural life of the Ancient Near East'.⁵⁴

Although the quantitative significance of slave labour in ancient Israel may have been relatively low when compared with other ancient societies, it is nevertheless noteworthy that the biblical authors repeatedly criticized the phenomenon of debt slavery. Slavery itself was taken for granted but the enslavement of a fellow-Israelite whose poverty had brought him into miserable circumstances which left him no choice but to sell himself, his wife, or his children was seen as abnormal and rejected by religious leaders.⁵⁵ Chirichigno has suggested that in ancient Israel as in Mesopotamia the rise of debt slavery can be attributed to a number of interrelated factors: high taxation, a monopoly of resources held by the state and the elite, high-interest loans, and the collapse of higher kinship groups.⁵⁶ Criticism of debt slavery arose as a response to the abuse of power by the landed elite.⁵⁷ Chirichigno believes that the biblical manumission laws were created in the monarchic period when debt slavery and 'social stratification greatly increased'.⁵⁸

Slavery continued to be part of the socio-economic structure of the land of Israel in the Hellenistic and Roman period. As in earlier times, landowning upper-class families will have employed slaves both on their estates and in their households, as evinced by the books of Tobit, Judith, Philo, and Josephus. According to Josephus, the wars of the Hasmoneans resulted in large numbers of enslaved war captives, at least some of whom would end up on local slave markets and be employed by individual owners. The Qumran community is singled out as having been opposed to slavery, although there is evidence suggesting that even there slaves were kept. To say that slavery was insignificant in ancient Israel in biblical, post-biblical, and Hellenistic times is therefore wrong. The upper classes who held political and economic power always had slaves and employed them for their own purposes, to maintain their status and to increase their wealth.

⁵⁴ Mendelsohn, *Slavery*, 111–12.

⁵⁵ See J. P. M. van der Ploeg, 'Slavery in the Old Testament', *Vetus Testamentum Supplementum*, 22 (1972), 82.

⁵⁶ Chirichigno, *Debt-Slavery*, 142.

⁵⁷ Ibid. 143.

⁵⁸ Ibid. 144.

Those rabbinic texts which are more specific with regard to slaves' tasks locate them in the domestic sphere. According to tannaitic texts, slaves may be employed to clean one's private bathhouse (M. B.B. 10: 7), redeem produce in the status of second tithe (M. M. Shen. 4: 4; T. M. Shen. 4: 3), carry the basket of first-fruits to Jerusalem (T. Bikk. 2: 10), hold their master's *lulav* on Sukkot (T. Suk. 2: 10), carry their master's slippers on the Sabbath (T. M.Q. 2: 16), carry their master in a sedan chair (Sifra Behar 7: 2, 80a), accompany their master to the bathhouse, carrying his clothes and utensils (ibid.), provide him with hot and cold drinks (ibid. 7: 2–3, 80b), wash his feet and tie his sandals (Mekh. Neziqin 1), supporting him on the street (ibid.). All of these tasks are tasks of personal servants whose activity centres on the household and extends beyond it to the public sphere. They are tasks which the master could also do himself, so that the employment of slaves must be considered a luxury.

The emphasis on slaves' domestic tasks continues in amoraic sources: Slaves fan their master with cool air on a hot day (y. Yoma 1: 1, 38c), they deliver writs of divorce (y. Git. 2: 6, 44c), they function as nurses and pedagogues for their master's children (Gen. R. 1: 1, 28: 6), they perform the work which the wife is supposed to do for her husband (Gen. R. 52: 12), such as cooking and baking bread (Gen. R. 51: 2). It is not surprising that in the intimate sphere of the household close relationships between slaves and their masters would develop which included sexual relationships. The extensive rabbinic discussion about the offspring of relationships between slaves and free Israelites must be seen against this background.

In addition, slaves appear as intermediaries in business transactions. One may assume that some slaves worked as relatively independent businessmen on behalf of their masters, who would earn the proceeds. Others worked as artisans or would be hired out to workshops. All of these tasks suggest an urban environment in which the slaves were active and their masters resident. Rural settings are only rarely alluded to in connection with slaves. For example, it is stated that a slave might deliver a cow to the borrower (cf. M. B.M. 8: 3, y. M. Shen. 4: 4, 55a); together with cattle slaves continue to work during their master's period of mourning (y. M.Q. 3: 5, 82b).

Does the evidence of rabbinic sources, which tends to locate slaves in an urban environment, suggest that in the first five centuries CE

domestic slavery had taken precedence in Roman Palestine, whereas agricultural slavery had receded? Can the rabbinic evidence be considered representative of the place of slavery in ancient Jewish society at large? We have to take into account that the sources provide the perspective of rabbis only, who were intellectuals mostly living in an urban environment, especially from the third century CE onwards. They would transmit traditions which had their origin in cities rather than in villages and therefore reflect the urban way of life. Rural slavery may not have caught their attention, or rural farmhands were too insignificant to feature in narratives and case histories concerned with specific halakhic incidents. On the other hand, at least some rabbis will have been landowners themselves, and many tannaim (and amoraim) did live in villages. If domestic slavery is nevertheless overrepresented in the sources, this image may have had some basis in reality.

As already mentioned above, in late antiquity domestic slavery seems to have prevailed in other Roman provinces as well.⁵⁹ In Noricum, for example, rural slaves mostly appear as 'overseers and personal servants, not as fieldhands', as MacMullen has emphasized.⁶⁰ In Pannonia 'there is a preponderance of representation in domestic service and lower administrative positions'.⁶¹ A similar situation is found in Dalmatia: slaves 'are found in households as personal servants, or as their masters' agents; or they work as craftsmen'.⁶² As far as Egypt is concerned Bagnall has argued that rural slaves, although small in number, continued to play a significant role in the economy and structure of the villages.⁶³ Nevertheless the slaves found in the sources 'are almost all household slaves or personal assistants for their master's business dealings'.⁶⁴ They are associated with upper-class households in urban environments.

Inasmuch as rabbis participated in the lifestyle of the late Roman urban elites they represented themselves as owners of slaves who performed various household tasks. The situation which Bagnall describes for Roman Egypt seems to have reigned in Roman Palestine as well. Many farmers may have had a few slaves who assisted them in the maintenance of their rural landholdings. Slaves will have been more

⁵⁹ See the discussion at the beginning of Ch. 6.

⁶⁰ MacMullen, *Changes*, 236.

⁶¹ *Ibid.*

⁶² *Ibid.* 237.

⁶³ Bagnall, 'Slavery', 229–30.

⁶⁴ *Ibid.* 233.

prevalent in more or less wealthy urban households, however, which did not really depend on slaves for their economic survival: 'Slavery is only one aspect of this pervasive set of relationships of power. If it was declining in importance in the face of other such relationships—and I am not yet persuaded that this was the case—it had lost nothing of its character, either as a part of the rural and urban economy, or as a necessity for the public lives of the elites, or as a kind of human relationship.'⁶⁵ As members of the intellectual elite rabbis will have had fewer slaves than wealthy urban grandees, but they may have followed the model of Libanius, Augustine, and other intellectual leaders in considering the possession of a few slaves a convenience as well as a status symbol, a function whose importance should not be dismissed.⁶⁶

⁶⁵ Ibid. 237–8.

⁶⁶ See G. E. M. de Ste. Croix, 'Early Christian Attitudes to Property and Slavery', in Derek Baker (ed.), *Church Society and Politics*, Studies in Church History 12, Oxford 1975, 16: 'anyone who wanted to live as a gentleman and have time to spend on such things as politics or philosophy or just a life of pleasure would have to rely mainly on exploiting slave labour'. Would this apply to those who wanted to lead a life of Torah study as well?

14

The Manumission of Slaves

THE eventual manumission of slaves was an ideal held up by many ancient slaveholding societies. It is expressed in numerous Greek and Roman literary texts as well as in the Hebrew Bible and later rabbinic and patristic writings. Wiedemann has stressed correctly that 'one of the reasons why people believe in certain shared ideals (...) is to enable them to come to terms with and tolerate practices which would be intolerable when looked at from some alternative point of view'.¹ The ideal of manumission allowed slaveholders to clear their conscience and to maintain their moral integrity: 'If they believed that it was a generally accepted rule that a loyal slave would soon be freed, and that a wicked slave did not deserve freedom, then they could sleep with an easier conscience even if the criteria they applied in practice were those of self-interest.'²

THE PROMISE OF MANUMISSION

The promise of manumission would, at the same time, motivate slaves to work harder, to be loyal and subservient rather than to voice their anger and revolt. In literary texts manumission is often presented as a reward (*praemia*) for the service of the faithful slave (*servus fidelis*), granted during the master's lifetime or after his death.³ 'If manumission was the due reward of the *servus fidelis*, then it followed that a slave-owner did not have any obligation to free a slave who had demonstrated

¹ Thomas E. J. Wiedemann, 'The Regularity of Manumission at Rome', *Classical Quarterly*, 35 (1985), 163.

² Ibid. 175.

³ See *ibid.* 164–5 for examples. Cf. e.g. Martial 1. 101.

that he was not *fidelis*.⁴ A master could always justify his refusal to manumit a slave by reference to the latter's deficiencies in serving him. One may assume that in practice loyal slaves were occasionally manumitted as examples of hard labour which received its due reward. Their service was meant to be emulated by other slaves for whom manumission was never guaranteed.

The large majority of slaves would become free at the time of their death only, or they were manumitted when they were old and weak, that is, unable to work properly.⁵ Old slaves would become a burden to their masters, for whom it was easier and more cost-effective to dismiss them than to support them until they died. In addition, slaves usually had to pay large amounts of money to purchase their liberty. Therefore Hopkins arrives at the following stringent conclusion:

If we consider slavery as a system, then the liberation of slaves, whatever blessings it brought to individuals, acted not as a solvent of the slave system, but as a major reinforcement. Emancipation enforced slavery as a system because Roman slaves frequently, even customarily, in my view, paid substantial sums for their freedom. The prospect of becoming free kept a slave under control and hard at work, while the exaction of a market price as the cost of liberty enabled the master to buy a younger replacement. Humanity was complemented by self-interest.⁶

The masters' self-interest would ultimately determine which and how many slaves were liberated.⁷ Idealist notions of gratefulness for the slave's service belong to the realms of literary fiction.

As far as Roman manumission laws of the first centuries CE are concerned, two forms of manumission would result in the freed (wo)man's Roman citizenship: *manumissio vindicta* and manumission by a testament.⁸ *Manumissio vindicta* operated on the false assumption that the slave was a free person wrongfully enslaved. A slaveholder who wanted to manumit his slave would ask a friend to publicly bring this

⁴ Ibid. 165.

⁵ See Alan Watson, *Roman Slave Law*, Baltimore and London, 1987, 23.

⁶ Keith Hopkins, *Conquerors and Slaves. Sociological Studies in Roman History*, Cambridge 1978, 118.

⁷ See also Keith Bradley, *Slavery and Society at Rome*. 3rd edn. Cambridge 1997, 163.

⁸ Watson, *Slave Law*, 23–4, with reference to Gaius, *Inst.* 1. 17. The third form of manumission, manumission by enrolment of the slave in the census, was largely abolished with the census after 166 BCE, see *ibid.* 24.

claim against him before the magistrate, who would cooperate in this farce and grant the slave citizenship.⁹ Manumission by testament, on the other hand, involved a clause in the testator's will stating that the slave would be freed (conditionally or unconditionally) upon his death.¹⁰ The testament had to contain a clear imperative in this regard, and the *lex Fufia Caninia* of 2 BCE. required that the slave be explicitly named.¹¹ Often the heirs would be compensated for the loss by the slave's payment.¹² Watson assumes that 'most manumissions would be by testament, since that would not deprive the master of the slave's services during his lifetime'.¹³ The *lex Aelia Sentia* of 4 CE excluded certain categories of slaves from obtaining automatic citizenship upon manumission.¹⁴ Slaves manumitted informally would not become Roman citizens but Junian Latins.¹⁵ This informal manumission could be effected through a letter from master to slave conferring freedom or *inter amicos*, through an oral declaration before friends or witnesses.¹⁶ Finally, under Constantine, another form of manumission, manumission *in ecclesia*, was introduced. The procedure had to take place before priests and required the owner's signature on a document.¹⁷ According to Keith Bradley, 'it is [nevertheless] unlikely that the rate of manumission was significantly raised by Christianity'.¹⁸

⁹ Watson, *Slave Law*, 23–4, with reference to Gaius, *Inst.* 1. 17. The third form of manumission, manumission by enrolment of the slave in the census, was largely abolished with the census after 166 BCE, 24–5. A certain ritual had to be followed, cf. Paulus, *apud* Festus p. 159 (quoted in Wiedemann, *Slavery*, 50): 'A slave is said to be manumitted, when his owner holds that slave's head or some other part of his body and says: "I want this man to be free" and takes his hand away from him [literally: lets him go out of his hand]'. On this procedure see also Buckland, *Roman Law*, 441–2.

¹⁰ On this form of manumission see Buckland, *Roman Law*, 442–4.

¹¹ Watson, *Slave Law*, 26 with reference to Gaius, *Inst.* 2. 239.

¹² Bradley, *Slavery*, 160.

¹³ Watson, *Slave Law*, 29. See also R. H. Barrow, *Slavery in the Roman Empire*, New York and London, 1968 (1st pub. 1928), 175.

¹⁴ Watson, *Slave Law*, 29–30 with reference to Gaius, *Inst.* 1. 18 and 1. 37: slaves under the age of 30 would be able to obtain citizenship only when 'freed *vindicta* after proof of a just cause of manumission in front of the *consilium* (council)'; slaves who had been forced to fight as gladiators or were chained or branded as a punishment would never be able to become citizens. See also Wiedemann, 'Regularity', 168.

¹⁵ Watson, *Slave Law*, 28 with reference to Gaius, *Inst.* 3. 56. There were various ways, however, in which Latins could become Roman citizens later on, see *ibid.* 31.

¹⁶ See *ibid.* 30–1.

¹⁷ *Ibid.* 31.

¹⁸ Bradley, *Slavery*, 158. He considers Constantine's innovation a matter of convenience rather than a mark of progress.

MANUMISSION IN THE BIBLE

Some biblical passages recommend that Hebrew slaves be released in the seventh year of their service or in the Jubilee year.¹⁹ Exod. 21: 3 even suggests that the slave's wife be allowed to leave together with her husband, and Lev. 25: 41 mentions his children in this regard. Whereas Exod. 21: 2 specifies that the slave may leave 'without payment', Deut. 15: 13–14 goes even further in stipulating that he shall not be manumitted empty-handed but provided with certain quantities of flocks, grain, and wine. The special treatment of Hebrew slaves is explained by reference to God's liberation of Israelites from Egypt: 'For they are my servants, whom I freed from the land of Egypt; they may not give themselves over into servitude' (Lev. 25: 42); 'Bear in mind that you were slaves in the land of Egypt and the Lord your God redeemed you' (Deut. 15: 13). Only if the Hebrew slave wants to stay with his master of his own free will shall he be allowed to do so (cf. Exod. 21: 6; Deut. 15: 16–17). For Canaanite slaves, on the other hand, no such recommendations concerning manumission are given. In the book of Leviticus non-Israelite slaves are considered the Israelite owner's permanent property: 'You may keep them as a possession for your children after you, for them to inherit as property for all time' (Lev. 25: 46).

The biblical manumission laws concerning Hebrew slaves are obviously diverse and contradictory. As already pointed out above, they must be understood as social ideals which offered differing solutions to the moral problem of Israelites who owned fellow-Israelites as slaves. Whether these ideals were ever put into practice cannot be determined. In the two instances where a general release of slaves is recorded in the Hebrew Bible, the seventh and Jubilee year rules are not even mentioned (cf. Jer. 34: 8–11 and Neh. 5: 1–13). Both of these instances are presented as one-off events.²⁰ Their very existence suggests that the

¹⁹ See Exod. 21: 2 and Deut. 15: 12: seventh year; Lev. 25: 40: Jubilee Year.

²⁰ N. P. Lemche, 'The Manumission of Slaves—The Fallow Year—The Sabbatical Year—The Jubel Year', *Vetus Testamentum*, 26 (1976), 54. Against Adrian Schenker, 'La liberazione degli schiavi a Gerusalemme secondo Ger 34,8–22', *Rivista Biblica*, 41 (1993), 457.

seventh and Jubilee year rules were not commonly practised by Israelites in antiquity.²¹

The biblical seventh and Jubilee year regulations are also mentioned by Philo and Josephus.²² As in the Bible, references to release of slaves on particular occasions by individual political leaders suggest, however, that the manumission laws of the Torah were not commonly practised. Josephus writes, for example, that the rebel chief Simon ben Giora 'withdrew to the hills, where, by proclaiming liberty for slaves and rewards for the free, he gathered around him the villains from every quarter' (*Bell.* 4. 508).

RABBINIC MANUMISSION RULES

The theoretical distinction between Hebrew and foreign slaves with regard to manumission is maintained by the Mishnah. Concerning Hebrew slaves *M. Qid.* 1: 2 rules:

A Hebrew slave is acquired by money and by a document. And he acquires himself by [serving for six] years, and in the Jubilee year, and by [redeeming himself at] his outstanding value [ובורעון כסף]. The female Hebrew slave has an advantage over him, because she [also] acquires herself through the tokens [of puberty]. He who has [his ear] pierced is acquired by [the act of] piercing and acquires himself in the Jubilee year and at the [time of the] death of the master.

Here as in Philo's and Josephus' writings the contradictory biblical rules concerning the release of slaves in the seventh and Jubilee years are harmonized: those slaves who had not been released earlier were to be manumitted in the Jubilee Year. The Jubilee Year manumission is applied to 'permanent' slaves (slaves who have their ears pierced) as

²¹ Lemche, 'Manumission', 57. For a general warning against viewing ancient law as the reflection of social practice see also Calum Carmichael, 'The Three Laws on the Release of Slaves (Ex 21,2–11; Deut 15,12–18; Lev 25,39–46)', *Zeitschrift für die Alttestamentliche Wissenschaft*, 112 (2000), 509.

²² Philo, *De spec. leg.* 2. 84–5 (release in seventh year); *ibid.* 122 (in the seventh or Jubilee year, harmonization of biblical passages); *De virt.* 121 ff. (seventh year); Josephus, *Ant.* 3. 282 (Jubilee Year); *Ant.* 4. 273 (in the seventh or Jubilee year, harmonization of biblical passages).

well. The third way of manumission for slaves, mentioned in M. Qid. 1: 2, the redemption through money, is further explained in T. Qid. 1: 5:

How does [one redeem oneself] by deduction from the purchase price [גִּירְעוֹן כֶּסֶף]? [If] he wanted to redeem himself during these years, he reckons the value against the years [still to serve] and gives [the balance] to his master, because the hand of the slave is on top [in estimating the amount of money to be paid to the master].²³

How does this third type of release relate to the manumission in the seventh or Jubilee year? If one tried to harmonize the three methods one would argue that a slave who wanted to gain his freedom prior to the seventh or Jubilee year would have to pay the outstanding balance of his purchase price. Another possibility is to see the three methods as equally valid alternatives: those masters who would neither release their slaves in the seventh nor in the Jubilee year (if it occurred within the slave's lifetime) should nevertheless grant them the option of redeeming themselves by monetary means. The purchase of one's freedom was also customary in Roman society, as already indicated above.

That the Jubilee Year regulation was not commonly observed in rabbinic times is indicated by the following passage in Sifra:

[A] R. Yose says: [Scripture says:] 'a Jubilee year', even though they did not release, even though they did not send out slaves [to freedom]. Might one suppose, [then, that there is a Jubilee year] even though they did not blow the *shofar*? Scripture says: 'it'.

[B] R. Yose said: ... How can I say that there can be a Jubilee year without the sending forth of slaves? For it is possible to have a Jubilee year without the sending forth of slaves, but it is impossible to have a Jubilee year without the blowing of the *shofar*.

[C] Another explanation: The blowing of the *shofar* depends on the court, but the sending forth of slaves depends on each individual human being [וְשִׁלּוּחַ עֲבָדִים תְּלוּיָה בְּכָל אָדָם] (Sifra Behar, perek 2: 4–5, 74a–b).

This text explicitly says that at least in rabbinic times the release of slaves in the Jubilee Year could not be enforced by the court but depended on

²³ Cf. Sifra Behar perek 9: 2 ff. 81b on this issue: an Israelite owned by a gentile may not be stolen or seized by usucaption or bought on the basis of an arbitrary price; the redemption money has to be in accordance with the purchase price and the number of years he has left to serve: a careful reckoning with the owner is necessary. See also *ibid.* 8: 6, 81a and y. Qid. 1: 2, 59b.

the individual master's own conscience. One must assume that in rabbinic times the manumission of Jewish slaves in the seventh or Jubilee year was seen as an ideal which rabbis knew was not always (rarely?) practised.²⁴ If the seventh and Jubilee year rules were not observed, however, there would have been little difference between the manumission of (originally) Jewish and non-Jewish slaves.

As far as non-Jewish slaves are concerned, the Mishnah discusses the question whether they could redeem themselves with their own money or by money paid by third parties only:

A Canaanite slave is acquired by money, and by a document, and by usucaption. And he acquires himself by money [paid] by others, or by a deed [of indebtedness issued] by himself [cf. M. Git. 4: 4], the words of R. Meir. But sages say: By money [paid] by himself, or by a deed [issued] by others, provided that the money is that of others (M. Qid. 1: 3).

This issue has already been alluded to above, in connection with the question whether slaves can own property and may accept gifts. In Roman society both possibilities existed: a slave could either purchase his freedom on the basis of the gains to his *peculium* which his master allowed him to use, or a free person who had mercy with him would provide the financial means for his release. One may assume that the first option (money provided by the slave himself) was more common than the latter. The fact that the Mishnah presents both possibilities may indicate that rabbis knew that both were practised.

M. Qid. 1: 2 suggests that female Hebrew slaves should be released automatically with the beginning of puberty. As already indicated in connection with the sale of daughters, this ruling was probably based on the phenomenon that slave girls were sexually exploited by their masters. By limiting the enslavement of girls to the time before puberty rabbis may have tried to prevent such practices, but it is hard to believe that they would have succeeded in achieving this goal.²⁵

²⁴ According to Sifra Behar pereg 3: 6, 75a par. Sifre Deut. 112 (p. 173), the seventh (i.e. Sabbatical) year does not set slaves free but releases monetary debts only. In Mekhilta Neziqin/Mishpatim 1 (p. 247) the slaves who might be released in the seventh year of their service are defined: someone sold by the court on account of his theft; someone who sold himself because of poverty: this option is then dismissed in favour of the first one (thief), though. Y. Qid. 1: 2, 59a specifies that in Exod. 21 the seventh year of the slave's service, not the Sabbatical year, is meant.

²⁵ Cf. the discussion of the Mishnah in y. Qid. 1: 2, 59b.

That slaves would automatically become free if their master had knocked out their tooth and/or eye is suggested but then rejected in a tannaitic case-story tradition about Rabban Gamliel and his slave Tabi transmitted in the Yerushalmi (cf. y. Shebu. 5: 7, 36c par. y. Ket. 3: 10, 28a):

A story concerning R. Gamliel who knocked out the tooth of Tabi his slave. He came before R. Yehoshua. He said to him: Tabi, my slave, I have found an opportunity to set him free. He said: It is not in your power [to set him free], and there are no fines except [in cases involving] witnesses and a court.

According to the story, R. Gamliel believed that a minor physical injury would lead to the slave's immediate freedom. This assumption is based on Exod. 21: 26–7: 'When a man strikes the eye of his slave, male or female, and destroys it, he shall let him go free on account of his eye. If he knocks out the tooth of his slave, male or female, he shall let him go free on account of his tooth.'

The Mekhilta rules that this biblical injunction should be applied to Jewish slaves only. In the case of a non-Jewish slave the loss of a major limb would be necessary to justify manumission.²⁶ The Mekhilta also provides an explanation to the question why the Bible specifies an eye and a tooth: their loss constitutes permanent blemishes for which there is no substitute. By analogy, the rule can be applied to other body parts which share the same traits (see *ibid.*). An alternative explanation is presented in a statement attributed to R. Yacob b. Zavdi in Gen. R. 36: 5: the seder verse Gen. 9: 22 says of Ham, Noah's son and the father of Canaan, that 'he saw . . . and he told'—he saw with his eyes and told with his mouth. Ham is presented as the quintessential slave here whose eyes and teeth were still intact. A tradition in Gen. R. 92: 1 suggests expanding the biblical rule to all kinds of afflictions a slave might suffer: 'R. Yudan said: It is written: 'If he smite out his male slave's tooth or his female slave's tooth [he shall let him go free for his tooth sake]' [Exod. 21: 27]. He upon whom sufferings [or: chastisements] come [מי שייסורין באים עליו], all the more so.' Whether the rabbi's contemporaries followed this suggestion is doubtful, though.

Besides the manumission procedures described so far, the Mishnah and Tosefta also know of other ways in which slaves could become free.

²⁶ See Mekhilta Neziqin/Mishpatim 9.

One way was the oral declaration of freedom made by a person who was dying. As we have seen above, Roman law allowed for formal manumission by a written testament or informal manumission though an oral declaration *inter amicos*. Some rabbis seem to have permitted such oral testimonies as well, as the following Tosefta text indicates:

He who says [before his death]: 'I have made So-and-So, my slave, a free person', 'I have made him a free person', 'I make him a free person', and 'Behold, he is a free person', 'Let him be made a free person'—Rabbi says: He has gained [his freedom]; but sages say: He has not gained [his freedom]. But they force the heirs to fulfil the words of the deceased (T. B.B. 9: 14).

According to Rabbi, such an oral declaration, even without explicitly stating the name of the slave, would suffice to set the slave free. While other sages would not consider such a statement sufficient, they nevertheless wanted the heirs to fulfil the dying person's wish and liberate the slave. Problems could arise with regard to the identity of the slave to be manumitted. The underlying assumption of the above-quoted passage may be that the slave was present at the time when the declaration was made before witnesses. A case of ambiguity is addressed in T. B.B. 11: 13:

He who says: 'Make Tabi, my slave, a free person', and there were two Tabis, they do not examine the language of an ordinary person, saying: This one he loved, but this one he did not love, but both of them go out free, and they take from both of them [money equalling] the value of one of them.

The problem is solved in favour of the slaves here. The ruling is reminiscent of the Roman principle to rule *in favor libertatis* in cases of uncertainty: 'When the intention of the manumitter is obscure, liberty is to be favoured' (*Dig.* 50. 17. 17a, Paul, book 16 on Plautius).

Both the Tosefta and the Yerushalmi seem to consider oral declarations and writs of emancipation the main means of manumitting slaves, and they usually do not distinguish between Jewish and non-Jewish slaves in this regard. T. Git. 7: 3 (in the Erfurt MS and 5: 3 in the Lieberman edn.) resembles T. B.B. 9: 14 in its structure but deals with manumission documents:

He who says to his female slave: 'Behold, this is your writ of emancipation [which is effective] from today, [but carried out only] after [my] death'—Rabbi says: Behold, this is a valid writ of emancipation; but sages say: Writs of

emancipation of slaves are like writs of divorce of women. He who says, 'Make So-and-So, my slave, a free person [effective] from today, [but carried out only] after [my] death', has not said anything. But they force the heirs to fulfil the words of the deceased.

Here, too, emancipation granted by a person about to die can only be effective after that person's death. Whether a procedure similar to the Roman testamentary manumission is envisioned here is unclear. The text seems to refer to a separate writ of emancipation rather than to a special clause within a will.

The question whether oral declarations are sufficient or whether written emancipation deeds were necessary is discussed in y. Git. 1: 6, 43d. After quoting T. B.B. 9: 14 (see above), which suggests that at least some rabbis thought that a slave could become free on the basis of the oral declaration of a dying person, the Yerushalmi quotes a statement attributed to R. Enayya in the name of R. Yochanan, which requires the additional existence of a writ of emancipation. In a situation where such a writ is missing and the oral instructions are ambiguous, the matter is subject to a dispute amongst rabbis.

Rabbinic texts also mention emancipation documents in connection with purchasing and redeeming Jewish slaves from gentile owners at gentile fairs. According to T. A.Z. 1: 8 and T. M.Q. 1: 12, these documents were to be deposited in archives. The redemption of Jewish war captives posed a particular problem for rabbis, who ruled that only formerly free persons should become free, whereas captured slaves, once redeemed, should be returned to their former owners (cf. M. Git. 4: 4).²⁷ This ruling probably served the purpose of preserving the ownership rights of Jewish slave owners after seizure of their slaves by the Romans. Rabban Shimon b. Gamliel is said to have even advocated the continuous enslavement of all war captives after their redemption, even if they had been freeborn originally (see *ibid.*). Their redemption would only mean the transfer from gentile to Jewish ownership then.

The general tenor of a number of manumission laws in the Mishnah and Tosefta is to liberate Jews from enslavement by gentiles, a tendency which is understandable in the social-political situation after the destruction of the Temple and the Bar Kokhba revolt, when many

²⁷ Cf. the parallel in T. Git. 4: 2 (in the Erfurt MS. and 3: 4 in the Lieberman edn.).

thousands of Jews were captured and enslaved by Romans.²⁸ According to a story transmitted in T. Hor. 2: 5–6, R. Yehoshua was able to rescue a child war captive from Jerusalem about to be sold at the slave market in Rome: ‘He redeemed him with a lot of money and sent him [back] to the land of Israel.’ On the other hand, the Mishnah warns against ransoming Jewish war captives at a price higher than their actual value on the slave market ‘for the good order of the world’ (cf. M. Git. 4: 6), since this might induce Romans to take more Jews captive and to increase slave prices. All Jews who might intend to sell slaves to gentiles or to someone who lived outside of the land of Israel are warned that their slaves would become free by this act (cf. T. A.Z. 3: 16, 18–19).²⁹

Finally, slaves could become free if they were designated heirs to their master’s property as specified in M. Peah 3: 8 and discussed above.³⁰

MANUMISSION INSCRIPTIONS

A number of Jewish manumission inscriptions derive from the Hellenized cities of the Bosphorus kingdom and are dated by Gibson to the late first and early second century CE. Only very few possibly Jewish manumission inscriptions from outside the Bosphorus are known and all of them can be dated to the Hellenistic period.³¹ According to Gibson, the inscriptional evidence indicates that ‘Jews lived in the [Bosphorus] region over an extended period, beginning no later than the first century CE.’³² Their

²⁸ Cf. Josephus, *Bell.* 6. 9. 3 (420) and the discussion above.

²⁹ See also T. Kel. B.Q. 1: 5 with regard to selling slaves in Syria which is considered similar to selling them abroad. Cf. Sifre Deut. 259 (p. 282).

³⁰ See Chapter 7.

³¹ E. Leigh Gibson, *The Jewish Manumission Inscriptions of the Bosphorus Kingdom*, Tübingen 1999, 66–70. Irina Levinskaya, ‘Review Essay: E.L. Gibson, *The Jewish Manumission Inscriptions of the Bosphorus Kingdom*’, *Jewish Quarterly Review*, 92 (2002), 511, questions the correctness of calling these manumissions Jewish but is unable to prove that they are pagan. Therefore the possibility of their Jewish origin remains. See the discussion below.

³² Gibson, *Manumission Inscriptions*, 28–9. On Jewish presence in the Bosphorus area see also Andrew J. Overman, ‘Jews, Slaves, and the Synagogue on the Black Sea. The Bosporan Manumission Inscriptions and their Significance for Diaspora Judaism’, in Howard Clark Kee and Lynn H. Cohick (eds.), *Evolution of the Synagogue: Problems and Progress*, Harrisburg 1999, 145–7.

manumission practices seem to have been influenced by Hellenistic customs.³³

All of the slaves manumitted in these inscriptions are called *threptoi*, if they are referred to in the plural; if they are referred to individually, their names are stated. That the reference to *threptoi* in manumission inscriptions from the Bosphorus kingdom was not a specifically Jewish phenomenon is evident from the fact that the term appears in pagan manumission inscriptions as well.³⁴ In all of these inscriptions the term *threptos* clearly denotes the slave. Whether it was used for a specific type of slave, that is, a slave who was brought into the household as an abandoned child and then reared as a slave, or a slave born within the household in contrast to a slave bought in the slave market, remains uncertain. It is also possible that the specific meaning of *threptos* ('abandoned child') in the Graeco-Roman context was unknown in the Bosphorus kingdom and that the term was used in a more general, unspecific way for any slaves.

Gibson distinguishes between the so-called synagogue manumissions and 'the "most high god" manumissions'. The synagogue manumission inscriptions share certain structural characteristics.³⁵ They start with the date of the inscription, then state that the owners set their slaves (who are called *threptoi*) free in the prayerhouse (*προσευχή*). Only in one of the inscriptions is the Jewish origin of the slave (and/or his wife) mentioned.³⁶ In the other cases the slaves may have been Jewish too, but they may likewise have been pagan. One of the four owners identifiable in the inscriptions was a woman, the former wife of a certain Drusus (*CIRB* 70). From the time of manumission onwards, the heirs are said to have no further rights over the slaves, who may go wherever they want. Gibson assumes that the synagogue plays the role of the witness in these manumissions: it acts as the guardian over the manumission contract between the owner and the freed slave.³⁷

³³ Gibson, *Manumission Inscriptions*, 28.

³⁴ Ibid. nos. 74 and 1021.

³⁵ Ibid. 124: *CIRB* 70, 71, 72(?), 73, 985(?), 1124(?), 1127(?), *SEG* 43. 510; the question-marks were added by Gibson.

³⁶ Gibson, *Manumission Inscriptions*, no. 1124. The Jewishness of the owners is usually assumed on the basis of the fact that the manumissions took place in a synagogue setting, see *ibid.* 128.

³⁷ Ibid. 150.

The slaves' freedom is limited by certain obligations towards the synagogue which are commonly specified as *θωπεία* (flattery) and *προσκατέρησις* (perseverance). The nature of these obligations remains uncertain. Gibson suggests that they resemble the *paramone* obligations of freed slaves common throughout the Graeco-Roman world.³⁸ The freed slave would then have been obliged to serve the prayerhouse whenever the need arose. His relation to the prayerhouse would have been economic rather than religious, though.³⁹ Levinskaya also views *προσκατέρησις* as a 'labor-related obligation owed to the prayer-house', so that the work would have to be 'done for, and quite possibly in, the prayer-house'.⁴⁰ The term *θωπεία* might be translated with 'respect' then: 'if someone works for a religious institution, it is reasonable to suppose that he or she should at least be expected to show respect—submissive respect—for this institution'.⁴¹

The second type of manumission inscription from the Bosphorus kingdom are the so-called "'most high god" manumissions'.⁴² These inscriptions, also dated to the first and second century CE, begin with an invocation of the 'most high god'. Like the synagogue manumissions they begin with the date. In one of these inscriptions the synagogue setting is mentioned (*CIRB* 1123), but no contradiction seems to have been seen between this setting and the reference to the pagan deities 'Zeus, Ge, and Helios' at the end of the inscription.⁴³ The slaves are said to have been set free in the prayerhouse according to their master's vow. The master's heirs thereby lose all rights over them. Gibson considers the inscriptions Jewish on the basis of the specific invocation formula which is well attested in Jewish sources.⁴⁴ In contrast to the synagogue manumission inscriptions, no ongoing obligations of the manumitted slaves are mentioned here, but this may be due to the fragmentary state of at least one of the texts.⁴⁵

No analogies to these types of manumission exist in other ancient Jewish sources. Those manumissions which invoke 'the most high god'

³⁸ For a discussion of the possible meanings of these terms see *ibid.* 135–49.

³⁹ Against Overman, 'Jews', 151: 'The adherence refers in some sense to participation or involvement in part of the life of the Jewish community.' *Ibid.* 154 he admits, though, that 'there is no obvious indication that these slaves were becoming Jews'.

⁴⁰ Levinskaya, 'Review Essay', 517.

⁴¹ *Ibid.*

⁴² See *CIRB* 1123, 1125–6.

⁴³ For reference to these pagan gods see also *CIRB* 1126.

⁴⁴ Gibson, *Manumission Inscriptions*, 111.

⁴⁵ Cf. *CIRB* 1125.

may have been influenced by pagan sacral manumissions, the synagogue manumissions by civil manumissions before town councils.⁴⁶ The slave owners who manumitted their slaves in synagogue settings need not even have been Jews, although for Jews such a setting seems most likely.⁴⁷ Gibson concludes: 'The Bosporan Jewish community employed pagan practices of manumission and adapted them only minimally before executing them in their own religious settings. This is a striking instance of cultural convergence: the pagan practice of freeing slaves in a religious setting was adopted by Jews and executed in their own prayerhouses, apparently without any awkwardness or sense of inappropriateness.'⁴⁸ The evidence from the Bosphorus suggests, then, that with regard to the Jewish Diaspora, of which we know so little, various adaptations of local manumission rites have to be reckoned with which may not have borne any resemblance to rabbinic instructions for manumissions developed in Roman Palestine.

⁴⁶ Gibson, *Manumission Inscriptions*, 155. For inscriptions of pagan sacral manumissions see *CIRB* 74 and 1021. On sacral manumission practices in Greece, Macedonia, Asia Minor, and Syria see F. Sokolowski, 'The Real Meaning of Sacral Manumission', *Harvard Theological Review*, 47 (1954), 173–81. On 173 he argues that dedication of a slave to a god or sanctuary did not automatically bring freedom; rather, 'the slave dedicated to the sanctuary could remain a slave of the god'; 'the Greek sanctuaries managed slaves, owned and sold them as did other enterprises'. Even if officially considered a freedman, the slave remained consecrated to the divinity, see *ibid.* 175.

⁴⁷ Gibson, *Manumission Inscriptions*, 15.

⁴⁸ *Ibid.* 156.

Summary

UNLIKE Roman society in early imperial times ancient Jewish society did not experience mass slavery, but slavery seems to have nevertheless constituted an important factor in the economy of Hellenistic and Roman Palestine. Throughout biblical and post-biblical times slave labour was employed in agriculture besides day labour and tenant farming, and it continued to play a significant role in the Jewish domestic economy of late antiquity.

The conditions responsible for Roman mass slavery, the enslavement of war captives and the development of large estates, were relevant in Palestine as well. Political subjugation and slavery are repeatedly associated with each other in the literary sources, both in Josephus and in rabbinic texts. The fear of enslavement as a consequence of imperialist politics seems to have been a common ancient phenomenon and will have been especially prevalent at times of political weakness. Jews enslaved war captives at the time of Hasmonean and Herodian rule. Jews were enslaved as war captives by Romans during and as a consequence of the first and second revolts against Rome. Jewish captives enslaved at that time will have either been sold at local slave markets or sent to Roman Italy. Some of these slaves may have eventually been purchased by Jewish estate owners who were loyal to the Romans and therefore able to enlarge their landholdings through confiscated property.

The dire socio-economic conditions of Roman Palestine in the first and second century CE were responsible for other methods of enslavement such as self-sale, the sale of one's children, child abandonment, banditry, and kidnapping. Although self-sale was prohibited according to Roman law, it seems to have been practised in some of the provinces and is taken as self-evident in Jewish literary sources from the Bible to midrashic writings. Debt slavery for a temporary period until the debts

were paid off was tolerated by rabbis. For many smallholders the confiscation and partition of land as well as Roman taxes, droughts, and bad harvests will have left little choice but to sell themselves or their children. Banditry and the kidnapping and enslavement of free human beings may have been less common but the phenomenon is repeatedly featured in ancient novels. Like Roman jurists rabbis considered the theft of human beings a criminal offence, and this also applied to the theft of slaves who were someone else's property.

At times other than immediately after conquests, when the slave markets were flooded with war captives, slaves were rather expensive to purchase and maintain. It would be profitable to own them only if they could be employed throughout the year. Conditions for perpetual employment were given on large estates only and even there, slave labour was often supplemented by free labour which could be more easily exploited. One may assume that in Palestine throughout the Roman and early Byzantine period free labour was widely available. In late antiquity the employment of slaves in agriculture seems to have decreased, while slavery continued to be an important aspect of the home economy.

Slaves were sold at fairs as well as individually by agreement amongst owners. A tannaitic tradition legitimizes the purchase of Jewish and non-Jewish slaves at such fairs, but rabbis were opposed to Jewish owners selling their slaves there, probably because they might be bought by pagans. They also tried to prohibit the sale of slaves to gentiles in general or to new owners who lived outside of the land of Israel. All of these provisions were meant to ensure that slaves from Jewish households, who had been circumcised (and immersed) would remain in Jewish ownership and not be exposed to idolatry. Some traditions suggest, however, that some rabbis did not adhere to these rulings, probably because of the profits involved in such sales.

While the Bible and Hellenistic Jewish literature do not provide guidelines for the sale of slaves, rabbis—like Roman jurists—tried to regulate the procedures. The sale would become effective on the basis of the transfer of money and oral and/or written agreements between the seller and the buyer, preferably in the presence of witnesses. As far as gentile slaves are involved, usucaption is mentioned as well, but it is unclear whether it was actually practised. At the time of the sale the buyer had to be informed about possible defects and misdemeanours.

Both rabbis and Roman jurists discuss aspects which might render the sale invalid. They obviously tried to protect buyers from sellers' fraudulent behaviour. The fact that the papyrus documents from the Judean Desert do not include any deeds of slave sales does not mean that such sales did not take place. Imperial legislation of the Byzantine period which tries to prevent Jews from purchasing gentile slaves indicates that such sales continued well into late antiquity and the early Middle Ages.

In the Bible slaves are associated with wealthy cattle-breeding land-owners. The Jewish inhabitants of the military colony of Elephantine seem to have each owned a few slaves only and employed them for various tasks within the household economy. The Qumran community seems to have inherited slaves from slave-owning members. Whether they were kept at the premises or sold remains uncertain. A number of Greek Jewish writers associate women from distinguished families with slaves. According to Josephus, such personal maidservants were not only owned by female members of the Herodian family but also by Josephus' mother, while Josephus allegedly employed a slave instructor for his son. Only few rabbis are presented as slave owners, and rabbinic slave ownership may have increased from tannaitic to amoraic times. One may assume that the increasing urbanization of rabbis would have made their slave ownership more likely. Yet even those rabbis who did not own slaves themselves seem to have adopted the perspective of the slave-owning strata of society, as may be expected from the free, economically secure male inhabitants of the Roman Empire.

Although the quantitative significance of slavery in Roman Palestine may have been low, slavery seems to have been an established part of the socio-economic structure of the land of Israel from biblical times onwards. Post-biblical Jewish writings such as Judith, Tobit, Philo, and Josephus indicate that the upper classes employed slaves both on their estates and as domestics. Even in late antiquity, when domestic slavery prevailed, slaves seem to have fulfilled business-related functions outside of the household as well. Rabbinic texts suggest that slaves were employed as intermediaries in business transactions. Such arrangements were very advantageous for masters due to the ambiguity involved in the slave's position: he could be seen as an extension of his master and as an independent agent, whatever was most suitable in a particular situation.

Both rabbis and Roman jurists discuss the various issues involved in such business dealings.

Although a *peculium* is never explicitly mentioned in ancient Jewish sources, the phenomenon that slaves conducted business with their master's property was known to rabbis. As in the case of the son who was dependent on his father and did not own property himself, the income the slave achieved would belong to the master. Yet under certain circumstances slaves would be able to own property themselves. If they received gifts from third parties they might use the money to redeem themselves. According to Roman law, gifts could be added to the *peculium* with the master's approval. Both rabbis and Roman jurists rule, however, that slaves may not give gifts to others from the money they administered for their masters.

The prospect of manumission served as an incentive to encourage the slave's good work and loyalty. The biblical manumission laws can be considered social ideals which are unlikely to have been observed on a regular basis, as the prophetic admonitions already show. Rabbis tried to harmonize the diverse and contradictory rules concerning manumission in the seventh and Jubilee year, and this harmonization already indicates that they existed in theory rather than practice. Without these rules in force little difference existed between the manumission of originally Jewish and non-Jewish slaves, and manumission practices amongst Jews seem to have resembled Roman manumission practices in many regards. The manumission of sick and old slaves was in the interest of the master, as was the redemption of slaves with money paid by the slave himself or a third party. Rabbis discuss various formal and informal ways in which slaves were released. They were especially interested in liberating slaves from gentile ownership. Possible Jewish manumission inscriptions from the Bosphorus kingdom reveal practices based on Hellenistic customs, without analogies in ancient Jewish sources. They may indicate the adoption of local pagan manumission rites by Diaspora Jews.

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PART IV
THE SYMBOLIC SIGNIFICANCE
OF SLAVERY

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IN this final part we shall look at the different ways in which slavery was used to signify something other than the reality in which the slave found him- or herself. Since biblical times the image of the slave had acquired a much broader meaning, detached from and at the same time based on the socio-economic phenomenon of enslavement. In particular, the imagery of slavery was used to express religious, social, political, and psychological realities.

In a religious sense slavery was identified with the human condition as distinct from the divine sphere and life in the world-to-come. The metaphor of slavery was adopted voluntarily to describe one's own position before God. To adopt this metaphor and call oneself a 'slave' was seen as a sign of humility. In the socio-economic realm the metaphor was used in front of human superiors, such as high officials and the emperor, to express one's inferior status and thereby acknowledge the status hierarchy involved in the relationship. This usage customarily appears in the introductions of certain types of ancient letters. In the political sense the slavery metaphor was used to express the situation of political subjugation under foreign rule. As a consequence of foreign imperialism the subjugated nation became the 'slave' of the foreign rulership. This idea was partly based on the experience of real enslavement as a consequence of military defeat. Finally, in its psychological meaning the metaphor described one's enslavement to emotions, desires, and bad habits. A person could easily become the slave of his or her evil inclination and be governed by it. The only way to avoid this dilemma, suggested by Stoic philosophers, rabbis, and Christian leaders, was to succumb to a higher wisdom, whether based on philosophy, the Torah, or belief in the divinity of Jesus.

Rabbinic literature and especially midrashic works contain numerous slave parables which usually have a king as their main protagonist. The king stands for God here, whereas the slave represents the ordinary human being. Sometimes two slaves or the slave and son are compared with regard to their relationship to the king/God. The slave parables reveal various aspects of the relationship between human beings and God and can be counted amongst the most important expressions of rabbinic theology. While they were probably originally created and transmitted orally, their meaning often underwent a transformation when they were included into the literary context of the Midrashim.

In Chapter 17 the biblical Exodus story and its repercussions in later Jewish literary works will be discussed. The Exodus gradually assumed a symbolic meaning and came to represent liberation from enslavement which differed from the actual socio-economic experience of the slave. The rabbis of the time after the destruction of the Temple were instrumental in bringing about this new understanding of the Exodus. The symbolic liberation from slavery, which is associated with the Exodus, is still customarily enacted at the Passover seder today.

15

Slavery as Metaphor

THE metaphorical use of images connected with slaves and slavery has a long tradition in Jewish writing. Whereas the religious use of the slave metaphor appears in the Hebrew Bible already, the psychological meaning, that is, the notion of one's enslavement to desires and emotions, seems to have been adopted by Jewish authors in Hellenistic times only. It is most prevalent in Philo's writings and may be traced back to philosophical, especially Stoic, influence. In contrast to its elaboration in early Christian writings, the rabbis do not seem to have adopted the idea. The socio-hierarchical use of the slave metaphor has its main Sitz im Leben in the formal introductions of letters, where the letter writer introduces himself to his addressee, but it has left traces in literary sources as well. In the political sense slave metaphors are used especially in Josephus' writings. Rome appears as the brutal slave master who reduced other nations to servitude.

THE RELIGIOUS USAGE OF THE SLAVE METAPHOR

Terms associated with slavery are used metaphorically in the Hebrew Bible.¹ Various biblical personages such as patriarchs, kings, and prophets present themselves or are presented as 'slaves of God'. The terminology is used especially often in connection with Moses,² David,³ and the prophets collectively⁴ and appears not only in the Torah but in

¹ On the occurrence and usage of the term in the Hebrew Bible and Septuagint see also Alfons Weiser, *Die Knechtsgleichnisse der synoptischen Evangelien*, Munich 1971, 19–23.

² Mal. 3: 22.

³ e.g. Ps. 18: 1, 36: 1; 2 Sam. 3: 18, 7: 5; 1 Kgs. 11: 13; Ezek. 34: 23–4, 37: 24.

⁴ e.g. 2 Kgs. 9: 7, 17: 13; Jer. 7: 25, 26: 5, 29: 16, 35: 14; Zech. 1: 6; Ezek. 38: 17.

all three parts of the Hebrew Bible. If Moses, David, and the prophets were the quintessential 'slaves of God', the term could be applied to other, less prominent figures as well. Accordingly, persons such as Yehoshua b. Nun,⁵ Serubbabel b. Shealtiel,⁶ Samson,⁷ and even the Babylonian king Nebuchadnezzar⁸ are depicted in this way. The term appears frequently as the individual worshipper's self-presentation in prayer and as a collective designation of Israel as the 'slave of God'. The latter usage is prominent in prophetic writings, especially in the book of Isaiah, but also in Jeremiah, Nehemiah, and the Psalms.⁹

In Isaiah the slave designation is usually connected with Israel's chosenness and task amongst the nations. For example, Isa. 42: 1 states: 'This is my slave, whom I uphold, my chosen one, in whom I delight. I have put my spirit upon him. He shall teach the true way to the nations.'¹⁰ The slave Israel is presented as a teacher here, while the nations appear as young children in need of knowledge and instruction. God appears in the image of the master who chose the slave and assigned specific tasks to him. That the master always has the option to punish and reject the slave is indicated in Isa. 41: 8–9. Therefore the slave is urged to obey his master and to avoid falling out of favour with him. The prophets warn their audience not to behave like a bad slave who turns a blind eye and deaf ear to his master (cf. Isa. 42: 19) and is given to plunder (cf. Jer. 2: 14). Yet they also promise Israel that God—unlike the majority of worldly slave owners—is a merciful and compassionate master, who will not abandon his slaves, even if they rebel against him (cf. Neh. 9: 17).

The usage of the slave–master imagery for Israel's relationship with God is related to God's redemption of the Israelites from Egypt. In connection with Hebrew debt slaves Lev. 25: 42 states: 'For they are My servants, whom I freed from the land of Egypt; they may not give themselves over into servitude.' After the Exodus from Egypt the Israelites were not supposed to have another master besides God; that is, becoming the slave of a worldly master or other gods would be a regression and incompatible with the exclusivity of Divine Lordship as

⁵ Cf. Josh. 24: 29; Judg. 2: 8.

⁶ Hag. 2: 23.

⁷ Judg. 15: 18.

⁸ Jer. 25: 9.

⁹ e.g. Isa. 4: 21, 41: 8–9, 42: 1, 65: 13–14; Jer. 2: 14; Neh. 9: 17, 36; Ps. 119: 91.

¹⁰ See also Isa. 49: 6: 'I will also make you a light of nations that my salvation will reach the ends of the earth.'

expressed in the *Shema Yisrael* (Deut. 6: 4, 12–15). In the book of Deuteronomy God's liberation of the Israelites from slavery in Egypt is repeatedly mentioned as a motivation for observing God's commandments, for example, 'Remember that you were a slave in the land of Egypt and the Lord your God freed you from there with a mighty hand and an outstretched arm. Therefore the Lord your God has commanded you to observe the Sabbath day' (Deut. 5: 15).¹¹ Israel's 'enslavement' to God as the only master entails obedience to his demands. As a punishment for non-observance the Deuteronomist warns: 'The Lord will send you back to Egypt in galleys . . . There you shall offer yourselves for sale to your enemies as male and female slaves, but none will buy' (Deut. 28: 68). The image of a slave without a master, without even the most basic means of subsistence, is envisioned here.

The (self-)presentation of Israel and Israelites as 'slaves of God', that is, the usage of the slave metaphor to denote human submission to God's authority, continues in the Septuagint, in Qumran texts, and in other Jewish writings from Hellenistic and Roman times.¹² It has its particular Sitz im Leben in prayer texts. For example, the hymn of the *maskil* in 4Q Serekh ha-Yachad, which the editors date to late Hasmonean or early Herodian times, contains the line, 'Blessed are you, oh my God, who opens to knowledge the heart of your slave'.¹³ According to the sect's dualistic theory, the 'slaves of God' are distinguished from the 'slaves of evil'. When referring to God's judgment of the wicked, the formulation 'to [exter]minate all of the slaves of e[vil]' is used in a Qumran sapiential text.¹⁴ Ps. Sal. 7: 9 evokes the image of the authoritative master who is prone to punish his slaves: 'And we are under your yoke forever, and [under] the whip of your discipline'. In Ps. Sal. 10: 4, on the other hand, the master's merciful behaviour is affirmed: 'And the Lord will remember his slaves in mercy'. The ambiguous image of the

¹¹ See also Deut. 15: 15 (release of Hebrew slaves in seventh year); 24: 22 (field produce for the poor).

¹² For a detailed discussion of slave terminology in the Septuagint and Hellenistic Jewish writings see John Byron, *Slavery Metaphors in Early Christianity and Pauline Christianity*, Tübingen, 2003.

¹³ The text of 4Q264, line 3, is published in Philip S. Alexander and Geza Vermes (eds.), *Qumran Cave 4: Serekh ha-Yachad and Two Related Texts*, Discoveries in the Judaean Desert 26, Oxford 1998.

¹⁴ 4Q421, fr. 9, line 3, published in Torleif Elgvin *et al.* (eds.), *Qumran Cave 4: Sapiential Texts*, part 1, Discoveries in the Judaean Desert 20, Oxford 1997.

master whose power allows him to be either benevolent and patient or revengeful and condemning is the basis of prayers for mercy and forgiveness. Thus Aseneth is said to have prayed to God: 'Be gracious, Lord, to your slave, and spare your maidservant, because I have spoken boldly before you all my words in ignorance' (Jos. As. 17: 10).

According to Philo, the purified soul has God as its master, for to serve God (*δουλεύειν θεῷ*) is a matter of pride and more valuable than freedom, wealth, and power in this world (*Cher.* 107). The exclusivity of God's lordship over human beings is stressed in contrast to the lordship of human masters: only God has true authority and ownership rights over everything, while the authority and ownership claims of human masters are imagined only (cf. *ibid.* 83). Although Philo uses slavery metaphors to describe human beings' proper relationship of piety towards God, he also stresses that God, unlike worldly slave masters, does not need the services of his slaves; this does not release the slaves from the necessity of their service, though.¹⁵

To express the relationship of the wise towards God Philo uses the image of friendship: 'for the wise is a friend of God rather than a slave [*φίλον γὰρ τὸ σοφὸν θεῷ μᾶλλον ἢ δούλον*]'.¹⁶ The differentiation between the slavery and friendship metaphor expresses the underlying distinction between the wise and ordinary Jews: as God's friends the wise stand in a much closer and more equal relationship to God than common people who (merely) obey God's commandments. Accordingly, people are recommended to become slaves of the wise (*δούλοι τῶν σοφῶν*) in order to participate in their wise masters' wisdom.¹⁷ The idea that the slave of a prominent master is considered prominent himself may be implied in this consideration: by becoming slaves of the wise even those who are enslaved in the real world can rise to a higher status, whereas members of the slave-owning strata of society, if unwilling to submit to the sages' authority, will be considered the lowest of the low by God.¹⁸

Josephus turns around the hierarchy of God as the slave master and human beings as his slaves when stating that in paganism the gods are enslaved to men:

¹⁵ Cf. Philo, *Quod deterius pot. insid. sol.* 56. This notion also appears in rabbinic writings, see below.

¹⁶ Philo, *De sobrietate* 55. See also *idem*, *Quod omnis probus liber sit* 42.

¹⁷ Cf. *Leg. all.* 3. 193.

¹⁸ Cf. *ibid.* 195.

Then there are the gods in bondage to men, hired now as builders [Poseidon and Apollo, cf. *Iliad* 21. 442–5], now as shepherds [Apollo, cf. *ibid.* 448 f.]; and others chained, like criminals, in a prison of brass [the Titans]. What man in his senses would not be stirred to reprimand the inventors of such fables and to condemn the consummate folly of those who believed them? (*C. Ap.* 247)

Josephus makes fun of the Greek myths which depict the gods as if they were human beings: they work, are punished, and are able to experience emotions such as jealousy and anger. His criticism of paganism may even go deeper, though: by inventing stories about the gods, human beings make them subservient to their needs and desires, they ‘enslave’ them to themselves.

Although Paul stands in the Jewish tradition of images of human beings’ enslavement to God, he diverts from that tradition by calling himself the ‘slave of Jesus Christ’ (Rom. 1: 1; Phil. 1: 1; Gal. 1: 10) rather than the ‘slave of God’.¹⁹ On the basis of his belief in the divinity of Jesus he may have considered the two formulations synonymous, but those Jews who did not share his belief would have interpreted his self-identification as the slave of a human being as a clear indication of paganism. In 1 Cor. 7: 22 the ‘slave of Christ’ metaphor is applied to all Christians: ‘For he who is called in the Lord, being a slave, is the Lord’s freedman; likewise also he who is called, being free, is the slave of Christ.’ Like Philo, Paul dismisses the significance of actual enslavement as irrelevant as far as spiritual freedom is concerned. At the same time he claims that even those who are free in the secular sense of the word are ‘slaves of Christ’. The paradox between being God’s freedman and Christ’s slave is confusing unless one applies the terms to different persons: the slave may be God’s freedman, that is, spiritually free, whereas even the free person may be spiritually enslaved to Christ. The latter type of enslavement includes the slave as God’s freedman as well: both would be ‘enslaved’ to God/Christ and spiritually free. Westermann views the text in light of the *paramone* obligations of slaves who underwent sacral manumission, that is, dedication to a Greek god: they were freedmen of the god but at the same time remained bound to

¹⁹ On Paul’s use of this metaphor see also Dale B. Martin, *Slavery as Salvation: The Metaphor of Slavery in Pauline Christianity*, New Haven and London 1990, 51–2, who suggests that Paul is ‘using the term as a leadership title’. But see the following discussion of 1 Cor. 7: 22.

him.²⁰ The text is fully understandable against the background of the biblical and Philonic use of the slave metaphors, though, which Paul adapted and changed for his own purposes. The image of God as the redeemer from slavery is as old as the biblical Exodus story.²¹

The biblical notion of God as Israel's redeemer from Egyptian slavery and only master reappears in rabbinic writings. In M. Pes. 10: 5 God is introduced as 'He who brought us forth from slavery to freedom' (הוציאנו מעבדות לחרות).²² The idea of God's exclusive mastership over human beings is enforced by the idea that actual slavery and Jewishness are incompatible. Philo's and Paul's distinction between physical and spiritual slavery, which promised the slave spiritual redemption through piety and at the same time legitimized his state of worldly enslavement, is absent here. For the rabbis, Jews who became enslaved are considered disobedient to God because they reversed the Exodus experience and broke the divine covenant (cf. T. B.Q. 7: 5). That the Exodus experience and a subsequent enslavement of Jews to human masters are incompatible is also stressed in Midrashim. Sifra transmits the following exegesis:

'For to me the children of Israel are slaves, they are my slaves, whom I brought forth out of the land of Egypt' [Lev. 25: 55]—on condition that they not be enslaved to them [gentiles]. 'I am the Lord your God' [*cont.*]—what does Scripture say? It teaches that whoever becomes enslaved to them below [in this world] it is reckoned to him as if he had become enslaved above [in the world to come] as well.²³

Paul's idea of the slave as God's freedman is clearly rejected here.

²⁰ William L. Westermann, 'The Freedmen and the Slaves of God', *Proceedings of the American Philosophical Society*, 92 (1948), 58 ff.

²¹ On 1 Cor. 7: 22 see also F. Lyall, 'Roman Law in the Writings of Paul—The Slave and the Freedman', *New Testament Studies*, 17 (1970–1), 73–9, who tries to explain the imagery on the basis of Roman manumission practices. On salvation terminology and slave metaphors in Paul's writings, with special reference to Rom. 8: 18–25, see Wayne G. Rollins, 'Greco-Roman Slave Terminology and Pauline Metaphors for Salvation', *Society of Biblical Literature Seminar Papers*, 26 (1987), 100–10.

²² See also y. Pes. 5: 5, 32c: 'And what would Moses say? . . . In the past you were slaves of Pharaoh; from then onwards, you are slaves of God'; *ibid.*: 'At that moment they would say: Halleluyah. These are slaves of God and not slaves of Pharaoh.'

²³ Sifra Behar pereq 9: 4, 81b.

THE PSYCHOLOGICAL USAGE OF THE SLAVE METAPHOR

Another, different usage of slave metaphors, which has no precedent in the Hebrew Bible and first appears in Jewish writings of Hellenistic and Roman times, is the theme of one's enslavement to passions and emotions. In ancient thought indulging in pleasures and giving in to earthly desires was associated with slaves because slaves catered to their masters' pleasures and were considered to lack self-control.²⁴ Martha Nussbaum defines emotions as 'forms of evaluative judgment that ascribe to certain things and persons outside a person's own control great importance for the person's own flourishing. Emotions are thus, in effect, acknowledgments of neediness and lack of self-sufficiency.'²⁵ As such, they are reminiscent of the situation of slavery, they cause one to be enslaved to other people (for example, lovers) or things (for example, food, money, beautiful clothes).

William Harris has pointed out that the criticism of emotions such as anger is prevalent in ancient literature from Homer in the pre-classical period to Libanius and Augustine in late antiquity.²⁶ Already by the sixth century BCE *sophrosyne* had become the ideal and by 420 BCE it was associated with the control of emotions.²⁷ In his *Nicomachean Ethics* Aristotle provides one of the first detailed discussions on the topic of restraining one's passions, but an elaborate theory about emotional passivity or neutrality was developed by the Stoics only.²⁸ Amongst others, Seneca, Plutarch, Epicurus, and Zeno wrote philosophical works on this subject.²⁹ The wise man depicted by Epicurus showed 'psychic tranquility, *ataraxia*'.³⁰ He was in full control of himself and

²⁴ William Fitzgerald, *Slavery and the Roman Literary Imagination*, Cambridge 2000, 107.

²⁵ Martha C. Nussbaum, *Upheavals of Thought: The Intelligence of Emotions*, Cambridge 2001, 22.

²⁶ William V. Harris, *Restraining Rage: The Ideology of Anger Control in Classical Antiquity*, Cambridge, Mass., and London 2001, 3.

²⁷ Ibid. 82.

²⁸ See *ibid.* 86 for references.

²⁹ For a discussion of the various philosophical theories of restraining emotions see *ibid.* 88–128. On pp. 127–8 Harris provides a list of philosophical treatises on anger and emotions. Most of these treatises exist only in the form in which they are transmitted by Diogenes Laertius.

³⁰ See *ibid.* 99.

could not be overtaken by passions, desires, and emotions. The achievement of this state of mind was considered the major goal of one's training in practical philosophy. Similarly Zeno, the founder of Stoicism, was believed to have written a tractate on passions (*pathe*). Like Epicurus and Seneca he was opposed to all kinds of 'irrational and unnatural movement[s] of the soul'.³¹ The opposite of such internal commotion, the freedom of the spirit, was considered to be obtainable independently of one's worldly status, that is, free persons could be enslaved to their desires, public offices, wealth, or high birth, whereas slaves could obtain spiritual freedom.³²

As far as ancient Jewish literature is concerned, the criticism of a person's enslavement to his passions is especially prevalent in the Testaments of the Twelve Patriarchs and also appears in Philo's and Josephus' writings. According to Test. Jud. 18: 6, the enslavement to worldly desires may prevent a person from being obedient to God: 'For two passions contrary to God's commands enslave him, so that he is unable to obey God: they blind his soul, and he goes about in the day as though it were night.' The passions are seen as alternative masters who compete with God for the rulership of one's soul. In Test. Asher 3: 2 they are even linked to Belial, that is, to idolatry: 'For those who are two-faced are not of God, but they are enslaved to their evil desires, so that they might be pleasing to Belial and to persons like themselves.' The Stoic idea of a person's enslavement to his desires is linked to the biblical concept of God as the only master who is opposed to one's submission to idolatry here.

Both biblical and Stoic ideas seem to have also influenced Philo's theory of enslavement. As already pointed out above, he argues that the purified soul has only God as its master (cf. *Cher.* 107). On the other hand, those who are prone to give in to their passions, whether sensuality, food, or music, will always remain slaves and never achieve spiritual freedom.³³ This concept is elucidated in more detail in Philo's treatise 'Every Good Man is Free' (*Quod omnis probus liber sit*), where he

³¹ For a discussion of the various philosophical theories of restraining emotions see *ibid.* 88–128. On pp. 127–8 Harris provides a list of philosophical treatises on anger and emotions. Most of these treatises exist only in the form in which they are transmitted by Diogenes Laertius, 104–5.

³² e.g. Seneca, *Dialogue* 9; *idem*, *On Benefits* 3. 17. On the Stoic concept of moral freedom/slavery see also Peter Garnsey, *Ideas of Slavery from Aristotle to Augustine*, Cambridge 1996, 132–8; Miriam T. Griffin, *Seneca: A Philosopher in Politics*, Oxford 1992, 260–2.

³³ Philo, *Leg. all.* 3. 198–9, 221, 240; *De spec. leg.* 4. 91; *Cher.* 71.

distinguishes between slavery of the body and slavery of the soul (cf. *ibid.* 17).³⁴ True liberty can be achieved only through liberation from the domination of the passions. In this way one can be physically free and at the same time possess an enslaved soul; or physically enslaved and liberated spiritually: 'Those in whom anger or desire or any other passion, or again any insidious vice holds sway, are entirely enslaved, while all whose life is regulated by law are free' (*ibid.* 45). The one form of slavery is entirely independent of the other, but only the latter form of freedom, spiritual freedom of the soul, is what matters to the enlightened.

Like Philo, Josephus criticizes people who are 'slaves to their passions'. Women are presented as slaves to an extravagant and luxurious way of living. In *Ant.* 15. 91 Cleopatra is presented as an example of this state: 'In sum, nothing was enough by itself for this extravagant woman, who was enslaved by her appetites, so that the whole world failed to satisfy the desires of her imagination.' Men, on the other hand, are described as enslaving themselves to their wives and lovers. Antony, for example, was 'now a slave to his passion for Cleopatra' (*Bell.* 1. 243), while 'Pheroras had become a slave to his wife and her mother and sister, even though he hated these creatures because of their arrogance...' (*Ant.* 17. 34). Under such circumstances, the women of the household could take advantage of their husband's, son's, and lover's weaknesses and employ them for their own purposes (cf. *Ant.* 15. 219: Mariamne). Both a criticism of the weakness and foolishness of men as well as a stereotyping of women as seductresses prone to plots and intrigues are at play in these texts. In contrast to Philo, however, the enslavement to passions is not contrasted with the religious freedom of the wise here, and the criticism is based on common sense rather than on a notion of spiritual superiority.

Whereas rabbis do not seem to have adopted the Stoic idea, in ancient Christianity the notion of human beings' enslavement to passions was taken up and elaborated.³⁵ The term *servi peccati*, 'slaves of sin', became part of Augustine's salvation theory.³⁶ Before Adam's sin and man's fall

³⁴ On Philo's ideas on slavery see especially Peter Garnsey, 'Philo Judaeus and Slave Theory', *Scripta Classica Israelica*, 13 (1994), 31–45.

³⁵ See also Harris, *Restraining Rage*, 391–9, on this subject.

³⁶ Richard Klein, *Die Sklaverei in der Sicht der Bischöfe Ambrosius und Augustinus*, Stuttgart 1988, 67–72.

from paradise man was living in harmony with God and was guided by his natural morality. The human body was governed by the rationality of the soul which prevented one's submission to low passions and desires. Yet enslavement to one's sins is seen as the common state of human beings after the fall.³⁷ The freedom to live a life of goodness and morality is believed to have been lost forever. Adam's *peccatum originale* is supplemented by one's own individual sins acquired throughout one's lifetime. Augustine exempts only a few biblical figures from his judgment. Noah, Abraham, Moses, David, and Elijah are seen as *servi Dei* on the basis of their righteousness and obedience to God. Yet they are also presented as precursors of Christ who redeemed man from enslavement and brought him forth to liberty.³⁸ The exclusivity of Augustine's claim that redemption from spiritual slavery is possible only through one's belief in Christ becomes evident in his designation of Jews as *servi legis per timorem*.³⁹ Yet the redeemed Christians are considered to remain slaves as well, namely slaves of God. To be the slave of God and truly free is not seen as a contradiction. This paradox, which also appeared in Paul's writings, can be traced back to ideas which also circulated in Hellenistic Judaism, as exemplified above.⁴⁰

THE SOCIAL USAGE OF THE SLAVE METAPHOR

The socio-hierarchical usage of the slave metaphor can be seen in analogy to its religious usage: in this case the master is not God but another human being. In both cases the metaphor expresses the hierarchical distinction between the 'slave' and his 'master'. If the 'master' is another human being, the differences in status are not as large, though, and occur in the worldly sphere. No differentiation between the human sphere and the transcendental dimension of the Divine is necessary here.

One might argue that this secular usage of the slave metaphor stands in contradiction to the religious usage of the term, outlined above: How can one declare oneself to be the 'slave' of a human being, for example, a

³⁷ Klein, *Sklaverei*, 67–8, with references.

³⁸ Ibid. 68.

³⁹ Ibid. 72–8. See also Garnsey, *Ideas*, 220–1 on Augustine's use of these terms.

⁴⁰ I am planning to write a separate, more detailed study of passions and emotions in Jewish-Hellenistic and rabbinic thought.

Jewish leader or Roman official, and at the same time be the 'slave' of God? Did the biblical concept of enslavement to God not exclude any other forms of enslavement as forms of idolatry? Is the concept of monotheism not threatened by such formulations? The socio-hierarchical usage of the metaphor is, in fact, absent from the Hebrew Bible. It may have been adopted by Jews in post-exilic times on the basis of its common usage in the Near East. Those Jews who used the term may have seen it as a mere formality to which they did not attach too much significance. As such it would not have conflicted with their monotheistic beliefs.

In the papyrus documents from Elephantine the expression 'your slave(s)' often appears in the introduction of letters. At least in those cases where the identity of the addressee is known, he seems to have always been hierarchically superior to the letter writer. The letter could have been written by the leaders of the community to the governor of the province or another high official, or by a community member to the community heads. The communal leaders accordingly appear as both 'slaves' and 'masters' in these letters, depending on their status relationship to the sender or addressee.

A letter dated to 428 BCE is addressed to a high official by the name Arsames: 'To our lord [מֵאֲרַם] Arsames, your slaves [עֲבָדֶיךָ] Achaemenes and his colleagues, and the notaries of the province...'.⁴¹ The letter deals with accounts for the collection and distribution of corn supplies for the garrison. In the continuation of the letter Arsames is further referred to as 'our lord' as well. In another letter, dated to 408 BCE, Yedoniah, the chief priest and head of the community at Yeb, petitions Bigvai, the Persian governor of the province of Judaea, to permit the rebuilding of the temple at Elephantine, which had been destroyed three years before: 'To our lord Bigvai, governor of Judaea, your slaves Yedoniah and his colleagues, the priests who are in Yeb the fortress...'.⁴² In relation to the same issue Yedoniah and four other prominent men of the military colony at Yeb sent another petition to the governor either at the same time or shortly after.⁴³ On the other hand, however, Yedoniah himself and the heads of the community are addressed as 'my lords' in a letter sent to them by a community member

⁴¹ A. Cowley (ed.), *Aramaic Papyri of the Fifth Century B.C.*, Osnabrück, 1967 (1st pub. Oxford, 1923), no. 17.

⁴² Ibid. no. 30.

⁴³ Ibid. no. 33.

whose name is lost due to the fragmentary state of the papyrus.⁴⁴ In this letter the sender brings forth some kind of complaint against the Egyptians, but the actual cause of the complaint remains unknown.

It is always the senders, who ask the addressees to do something for them, who present themselves as the latter's slaves, that is, formally humiliate themselves before them. A further example is the letter of Ma'uziah at Abydos to the heads of the community at Yeb, Yedoniah and his colleagues.⁴⁵ Ma'uziah asks the communal leaders to treat well two individuals who have helped him get out of prison. It probably lies in the nature of these letters that the sender is the one who requests a service and therefore adopts the literary convention of calling himself the addressee's slave. Since the one who is able to grant the request is always more powerful than the petitioner in some regard, the status hierarchy would be implied. A governor or communal leader who asks communal members to adhere to certain rulings or to behave in a certain way would not identify himself as their 'slave' and the addressees as 'my lords', as the letters of Paul to communities in Rome and Asia Minor show. The self-presentation as the addressee's slave seems to have its *Sitz im Leben*, then, in a particular type of ancient letter, namely petitionary letters.⁴⁶

Women's self-presentation as men's slaves also belongs to this category. As already pointed out above, Aseneth calls herself Joseph's slave, willing to serve him forever (cf. Jos. As. 6: 8 and 13: 15).⁴⁷ In the same novel she also appears as the 'mistress' in front of whom others humble themselves, though. Joseph's wicked brothers allegedly prostrated themselves before her and implored her to help them avoid a too strict punishment for their deeds: 'Have mercy on us, your slaves, because you are our mistress and queen' (Jos. As. 28: 2–4). In both cases actual status differences are implied in the usage of the terminology: as a woman Aseneth is inferior to Joseph but as Joseph's wife she is superior

⁴⁴ Cowley, *Aramaic Papyri* no. 37.

⁴⁵ Ibid. no. 38.

⁴⁶ For further usage of the terminology in the Elephantine papyri see *ibid.* nos. 39, 54, 66, 68, 70, 82; Emil G. Kraeling (ed.), *The Brooklyn Museum Aramaic Papyri: New Documents of the Fifth Century B.C. from the Jewish Colony at Elephantine*, New Haven 1953, no. 13.

⁴⁷ On this terminology see also Ita Sheres, 'Aseneth—From Priestess to Handmaid and Slave', *Shofar*, 17 (1999), 30: 'In other words, Aseneth submits by a vow of obedience. She recognizes Joseph as her master and as a man with special powers and station in life. Aseneth portrays herself as a willing subordinate...'. See Ch. 3 above.

to his brothers. Similar to the introductions of documentary petitions, presented above, oral petitions transmitted in writing use the slave terminology as well. According to Judith 10: 23, Judith prostrated herself in front of Holophernes and said: 'My lord, grant your slave a hearing and listen to what I have to say to you.'⁴⁸ The authors of these works probably knew and adopted the conventions used in oral and written petitions of their time.

Josephus provides further examples of this phenomenon. In *Ant.* 11. 22 he transmits a letter to Cambyses, written by the people of Syria and Phoenicia. In his formulation the letter starts: 'To our lord by his slaves Rathymos, the recorder of all things that happen, Semelios, the scribe, and the judges of the council in Syria and Phoenicia . . .'. Interestingly, in the text's parallel in Ezra 4: 9 the term 'slaves' is not used. Later on in *Antiquities* Josephus reports that Herod would insist on his subjects' formal self-humiliation in front of him and persecute those who did not: 'In fact, among his own people if anyone was not deferential to him in speech by confessing himself his slave or was thought to be raising questions about his rule, Herod was unable to control himself and prosecuted his kin and his friends alike, and punished them as severely as enemies. These excesses he committed because of his wish to be uniquely honoured' (*Ant.* 16. 156–7). The text shows that one's formal self-identification as a slave had deeper socio-political dimensions: by declaring oneself someone else's slave one acknowledged that person's superiority and succumbed to his or her power and authority.

Rabbinic literature also preserves traces of the socio-hierarchical usage of the slave metaphor. In one of the stories about Rabbi's relationship to the Roman emperor Antoninus Rabbi is said to have called himself Antoninus' slave. According to the story, Rabbi had asked R. Efes to write a letter to his emperor-friend for him.⁴⁹ When he saw that he had written, 'From Yehudah the patriarch to our lord [למרן] Antoninus', he allegedly destroyed the letter and asked him to rewrite it and to replace the introductory formula by a more appropriate one: 'To

⁴⁸ See also Judith 11: 17. See Jennifer A. Glancy, 'The Mistress-Slave Dialectic: Paradoxes of Slavery in Three LXX Narratives', *Journal for the Study of the Old Testament*, 72 (1996), 82–3: 'Judith's self-description of herself as slave coupled with the benign depiction of the central mistress-slave relation obscures other references to the horrors of enslavement, particularly the fear of women being enslaved.'

⁴⁹ See Gen. R. 75: 5.

our lord, the king [למרן מלכא], from Yehudah your servant [עבדך]. Interestingly, the same terms which were already used in the Elephantine papyri many centuries before reappear here. Nevertheless, they were not mere formalities used by ancient letter writers without further thinking, as the continuation of the story shows. When R. Efes asked Rabbi why he wanted to humble himself before the Roman ruler, he referred to Gen. 32: 5, where Jacob calls himself 'slave' in relation to Esau, his 'master'. It is not clear whether the story was created for exegetical purposes or whether the biblical verse was merely quoted to support and illustrate Rabbi's behaviour. In any case, Rabbi is said to have acknowledged his inferior status and client-relationship toward the emperor by using the customary letter formula here.

The status difference between Rabbi and Antoninus is made even more explicit in a Geniza fragment which may preserve another version of the story.⁵⁰ Here the story is linked to Gen. 32: 5 as well and quoted as an illustration of the statement: 'The Torah has taught good manners [דרך ארץ]: to pay honour to the government': 'Rabbi wrote to Antoninus: 'Your slave Yehudah greets you [lit.: asks after your welfare]''', and the storyteller or editor further explains that this was done 'to pay honour to the government, as Jacob did to Esau'. The actual story tradition is linked much more closely to the biblical text and its exegesis here, which form the framework for its citation. Whether this version preceded the Gen. R. version, as Jacobs assumes, remains unclear.⁵¹

A story transmitted in the Babylonian Talmud presents Rabbi as Antoninus' status superior: 'Antoninus served Rabbi, Artaban served Rab' (b. A.Z. 10b). The verb שמש which is also used for students' service of their teacher (שימוש חכמים) is used here. The fact that the Babylonian amora Rab is mentioned alongside Rabbi indicates the Babylonian origin of this formulation. In this text the hierarchy between the rabbi and the emperor is reversed: the emperor is presented as the 'slave' of the rabbi. This fictitious reversal of the hierarchy probably served to

⁵⁰ For this text see J. Mann (ed.), *The Bible as Read and Preached in the Old Synagogue* (partly Heb.), vol. 1, New York 1971 (1st pub. Cincinnati, 1940), 322.

⁵¹ Martin Jacobs, *Die Institution des jüdischen Patriarchen. Eine quellen- und traditionskritische Studie zur Geschichte der Juden in der Spätantike*, Texts and Studies in Ancient Judaism 52, Tübingen 1995, 149.

emphasize rabbis' spiritual superiority over the emperor as the representative of political authority.⁵²

THE POLITICAL USAGE OF THE SLAVE METAPHOR

That enslavement often occurred as one of the consequences of political subjugation has already been mentioned. But the very fact of a people's submission under foreign dominion is also often presented as slavery in the literary sources, irrespective of the population's actual enslavement by the foreign ruler. The term slavery was used to describe the lack of political independence and liberty. To be a member of a subjected nation was considered as being a slave of the foreign powers, compelled to obey their orders and to show loyalty towards them. This usage of the slave metaphor was very common in the Graeco-Roman cultural context and appears in many literary texts. Thucydides, for example, called the Greek dominion over other nations slavery.⁵³ On the basis of a number of such texts from Greek literature DuBois concludes: 'Literal and metaphorical slavery are inextricable here, as the struggle for Greek freedom was understood both as the preservation of a way of life, and as an escape from the fate of literal enslavement.'⁵⁴ This consideration also applies to ancient Jewish writers who utilized the slavery metaphor to denote political subjugation. Their usage of the metaphor must be seen within this broader context of ancient rhetorics and historiography.

The political usage of the slave metaphor is particularly prevalent in Philo's and Josephus' writings, that is, in the first centuries of Roman rule over Palestine. In his *Legatio ad Gaium*, which is an invective against Gaius based on the experience of the anti-Jewish riots in Alexandria in 38 CE,⁵⁵ Philo describes the Roman emperor as a despot who

⁵² On the Rabbi–Antoninus stories see also Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine*, Texts and Studies in Ancient Judaism 66, Tübingen 1997, 441–6.

⁵³ Page DuBois, *Slaves and Other Objects*, Chicago and London 2003, 127, with reference to Thucydides' *History of the Peloponnesian War* 7. 75 and 7. 66–8.

⁵⁴ Ibid. 126.

⁵⁵ See Mary E. Smallwood, *Philonis Alexandrini Legatio ad Gaium*, ed. with introd., trans., and comm., 2nd edn. Leiden 1970, 3.

planned a bitter battle against the Jewish people. In using slave metaphors he states that there is nothing more burdensome for a slave than a master who is hostile towards him (ibid. 119). The Jewish people had not only become the slaves of the Roman authorities, but the most rightless amongst all of their slaves (cf. ibid.).

In the same treatise Philo elaborates on the slave metaphor and applies it to the Jewish reaction against Caligula's venture to set up the statue of the emperor in the Temple: a slave is not so stupid as to attempt opposition against his master—accordingly, Jews willingly let themselves be killed without resistance to the higher authority (ibid. 233). By using the slave metaphor here, Philo presents Jews as utterly helpless in the face of Roman power, without any choice but to submit to their demands and to let themselves be ruled by the Romans. Any alternative would be useless and foolish. The possibility of a successful slave rebellion is not envisioned here. Instead, a submissive attitude toward the foreign power is advocated by Philo. This position was probably taken by Philo in order to ensure the emperor's preservation and possible enlargement of Jewish civil rights.⁵⁶

The attitude of the rebels as presented by Josephus is exactly the opposite of Philo's views. Referring to the brigands of the 50s CE Josephus writes that they 'incited numbers to revolt, exhorting them to assert their independence, and threatening to kill any who submitted to Roman domination and forcibly to suppress those who voluntarily accepted servitude [*δουλεία*]' (*Bell.* 2. 264). The term servitude, *δουλεία*, is continuously used to express Jewish subjugation under Roman rule both in connection with the rebels and with those who were opposed to rebellion. It appears frequently in Agrippa's speech when he allegedly tried to dissuade his fellow Jews from fighting against the Romans. Like Philo, Agrippa is said to have considered superfluous any complaints against submission to servitude (cf. *Bell.* 2. 349), especially at a time when the Roman 'yoke' had already been accepted: 'For servitude is a painful experience and a struggle to avoid it once for all is just; but the man who having once accepted the yoke then tries to cast it off is a contumacious slave, not a lover of liberty' (*Bell.* 2. 355–6). The

⁵⁶ See Smallwood, *Philonis Alexandrini Legatio ad Gaium*, 24–5: Philo was the leader of a Jewish delegation to Gaius which complained about the Greeks' actions against the Jews and asked for the maintenance of Jewish civil rights in Alexandria, namely, their position as members of the Jewish *politeuma*.

Romans are so powerful, and so many nations have already yielded to them, that the resistance of a few would never be successful (cf. *ibid.* 2: 361, 365, 367).

A similar argumentation was allegedly adopted by Titus, in whose mouth it sounds offensive, though. When speaking to his soldiers Titus said: 'It would indeed be disgraceful that Jews, to whom defeat brings no serious discredit, since they have learned to be slaves, should, in order to end their servitude, scorn death and constantly charge into our midst, not from any hope of victory, but for the sheer display of bravery' (*Bell.* 6. 42). Jews, who have lived under foreign dominion for so many centuries, should be experienced in slavery and be aware of the uselessness of revolt. This long experience of slavery, which started with the Babylonian Exile, is delineated by Josephus in *Antiquities*. Jeremiah had already predicted that after seventy years the Persians would liberate the Jews from Babylonian slavery (*Ant.* 10. 112–13). Later Judah Maccabee set a memorial for himself by 'having freed his nation and rescued them from slavery to the Macedonians' (*ibid.* 12. 434). The same achievement is later ascribed to Simon as well (cf. *ibid.* 13. 213).

While these examples show that Josephus himself uses the term 'slavery' for Jews' centuries-long submission under foreign dominion, he is at the same time aware of the common anti-Jewish argument, implied in Titus' speech above, according to which the lack of political independence renders Jews a 'nation of slaves'. Apion's propagation of this argument is discussed in *Contra Apionem*:

A clear proof, according to him, that our laws are unjust and our religious ceremonies erroneous is that we are not masters of an empire, but rather the slaves, first of one nation, then of another, and that calamity has more than once befallen our city (*C. Ap.* 2. 125).

To which Josephus replies:

As if his fellow-countrymen from time immemorial had been the masters of a sovereign state, and had never known what it was to serve the Romans! On Roman lips such a lofty claim might be tolerated. For the rest of the world, there is not a man who would not admit that this argument of Apion closely touches himself. It has been the lot of few, by waiting on opportunity, to gain an empire, and even they have, through the vicissitudes of fortune, been reduced once more to servitude beneath a foreign yoke; most races have frequently had to submit to others (*ibid.* 126–7).

Not the ill-will of God but worldly misfortune caused Jews to lose their territory, a misfortune which other nations, such as the Egyptians, have suffered as well. In addition, the Jewish submission to other nations cannot be considered a permanent state: it was temporary only. David and Solomon subjugated many nations (cf. *ibid.* 133). The Hasmoneans entered friendship treaties with the Romans (cf. *ibid.* 134). Therefore the assumption of Jews' eternal slavehood has no basis in history and must be dismissed.

The notion of a long record of Jewish subjugation has also left traces in rabbinic sources. After the defeat by the Romans in the first and second revolt rabbis do not advocate rebellion and seem to have accommodated themselves to the circumstances in which they found themselves. For them no end of their situation of submission to the Romans seemed in sight. The breaking of the yoke is delegated to an act of God at the end of times. Sifra comments on Lev. 26: 13 ('I am the Lord your God, who brought you forth out of the land of Egypt, that you should not be their slaves; and I have broken the bars of your yoke and make you walk erect').⁵⁷ The formulation, 'and I have broken the bars of your yoke', is commented upon by the citation of a parable about a householder who lent his cow to someone for ploughing. The ten sons of this man would use the cow one after the other so that the cow became very tired and had to lie down and rest. When the owner of the cow heard about this situation, he went and broke off the cow's yoke so that it would not be subjected to hard labour any more. In the *nimshal* the parable is applied to the situation of Israel:

So is Israel in this world. One ruler comes and subjugates [them, מַשְׁעֲבֵד] and goes away, another ruler comes and subjugates [them] and goes away, so that the furrow is very long . . . Tomorrow, when the end comes, the Holy One Blessed Be He will not say to the nations: so-and-so have you done to my children. Rather, he will immediately come and break the yoke and cut off the ends of the yoke, for it is said: ' . . . and I have broken the bars of your yoke' (Lev. 26: 13).

No liberation from foreign dominion/enslavement in this world is hoped for or promised here any more. A liberation can only be brought about by God, the 'owner of the cow', whenever he sees fit. He will not

⁵⁷ Cf. Sifra Behuqotai perek 3: 5–6.

even criticize those who subjected the cow to hard work, but take immediate action to stop enslavement once and for all.

The texts from Philo, Josephus, and rabbinic literature show that the slave metaphor was both adopted by Jewish writers by way of self-identification to describe the difficult political situation in which Jews found themselves, and at the same time rejected in its anti-Jewish manifestation, where it had become a libel used to legitimate foreign dominion, denunciation, and mistreatment of the Jewish subjects.

16

Slave Parables

SLAVE parables are an important means of employing slave imagery for theological purposes. The large majority of these parables are transmitted in amoraic Midrashim, but some also appear in tannaitic Midrashim and in the Tosefta. This shows that the form of the slave parable was already known to the rabbis in the first two centuries but flourished especially from the third century onwards. Slave parables also appear in the gospels of the New Testament.¹ Interestingly, both the gospels and rabbinic literature contain many more slave parables than parables featuring day labourers or tenant farmers.² This may be due to the fact that they expand the above-mentioned biblical metaphor of human beings as 'slaves' of God, a metaphor which expresses human beings' utter dependence on God as well as underlining the personal aspects of the relationship. In this sense the slave parables can be seen as expanded metaphors which play with the various associations which the ancient slave experience provided and construct detailed and at the same time succinct theological vignettes out of them.

As Crossan has already observed for the New Testament slave parables, these parables constitute a 'thematic unity' in rabbinic literature as

¹ See the list in Mary Ann Beavis, 'Ancient Slavery as an Interpretive Context for the New Testament Servant Parables with Special Reference to the Unjust Steward (Luke 16: 1–8)', *Journal of Biblical Literature*, 111 (1992), 37, based on J. D. Crossan, 'The Servant Parables of Jesus', *Semeia*, 1 (1974), 17–62; Mark 13: 33–7/Luke 12: 35–8 (the doorkeeper), Matt. 24: 45–51/Luke 12: 42–6 (the wise and evil slave), Matt. 25: 14–30/Luke 19: 12–27 (the talents), Matt. 18: 23–8 (the merciless slave), Luke 17: 7–10 (the slave's reward), Luke 16: 1–8 (the unjust steward). See also Weiser, *Knechtsgleichnisse*, 45. Some other parables feature slaves as subordinate figures only.

² For a comparison between the parable of the workers in the vineyard (Matt. 20: 1–16) and rabbinic parables featuring day labourers see Catherine Hezser, *Lohnmetaphorik und Arbeitswelt in Mt. 20, 1–16. Das Gleichnis von den Arbeitern im Weinberg im Rahmen rabbinischer Lohngleichnisse*, *Novum Testamentum et Orbis Antiquus* 15, Fribourg and Göttingen 1990.

well.³ The parables were probably originally told orally, and then transmitted in various forms and adapted to differing situations, until they were written down. In written form they may have circulated in collections of thematically similar parables before they were integrated into the new midrashic literary contexts. In the larger literary genre of midrash each parable is usually linked to a biblical verse, but this association seems to be the work of pre-redactional editors rather than an original feature of the parables in their oral (and early written?) forms.⁴ As independent units in their earlier stages of creation and transmission the parables may have conveyed different messages from those after their integration into the literary context of the midrash, messages which can only be determined after a careful literary study of the texts.

In contrast to the New Testament slave parables most of which confront the slave with a human master, the large majority of the rabbinic slave parables feature a king as the main protagonist. They therefore form part of the so-called king parables, which usually start with: 'The matter may be compared to a king (of flesh and blood) . . .' (משל למלך בשר ודם). Such king-parables do not deal with the institution of slavery only. They thematize issues which not only the Roman emperor but common slave owners might have been confronted with as well.⁵ Accordingly, significant differences between parables which feature a human slave owner and those which feature a king are scarce and the king and 'person of flesh and blood' are usually interchangeable. One may assume that rabbis considered the king metaphor

³ J. D. Crossan, *In Parables: The Challenge of the Historical Jesus*, New York 1973, 96.

⁴ David Stern, *Parables in Midrash: Narrative and Exegesis in Rabbinic Literature*, Cambridge, Mass., and London 1991, 7, points out that in midrashic works the originally narrative context has been substituted by an exegetical context. In midrash the parables have been made subservient to the interpretation of Scripture, a phenomenon which becomes evident in the *nimshal*, the parable's midrashic application. See also *ibid.* 16. Clemens Thoma and Simon Lauer, *Die Gleichnisse der Rabbinen*, part 1: *Pesiqta deRav Kahana (PesK). Einleitung, Übersetzung, Parallelen, Kommentar, Texte*, Bern, Frankfurt, and New York 1986, 24, also admit that form-critically the parable must be seen as an originally independent unit and that the midrashic connection between *masal* and *nimshal* is not absolute.

⁵ On king parables see especially Ignaz Ziegler, *Die Königsgleichnisse des Midrasch beleuchtet durch die römische Kaiserzeit*, Breslau 1903, who evaluates them with regard to their employment of the realia of life at the royal court.

more suitable to express God's honour and position.⁶ The listener/reader is invited to identify him- or herself with the slave and/or the other subordinate characters. The parables are especially rich in their employment of various aspects of the slave experience and suggest that the authors and transmitters as well as their audience had a solid knowledge of ancient slavery. The various aspects of a slave's relationship with his master are used to elucidate human beings' relationship with God.

The rabbinic slave parables focus on the following main topics: the slave's observance or non-observance of his master's orders and his master's treatment of him; the slave's escape from or attachment to his master; the contrast between two slaves or between the master's son and his slave; the slave pedagogue or wet-nurse and the master's son. While slave parables are already transmitted in the Tosefta and tannaitic Midrashim, the pedagogue parables appear in amoraic Midrashim only and are particularly prevalent in Genesis Rabbah and Leviticus Rabbah. A few parables are also found in the Talmud Yerushalmi but none of them features slaves. The slave parables of the Babylonian Talmud are excluded from the discussion here but are worthy of further comparative study.

THE SLAVES' OBSERVANCE OR NON-OBSERVANCE OF THE KING'S ORDERS

Many slave parables deal with the slave's observance or non-observance of his master's orders. Sometimes the master's reaction is mentioned as well. T. Ber. 6(7): 18 transmits the following parable:

They told a parable. To what is the matter like? To a king of flesh and blood, who said to his slave: 'Cook a dish for me', and he had never cooked a dish before—at the end he will spoil the dish and anger his master. [Or he asked his slave] to hem a shirt for him, but he had never hemmed a shirt before—at the end he will spoil the shirt and anger his master.

The parable seems to suggest that a slave should be grateful not to be asked to perform tasks in which he is not competent. If he were asked by

⁶ See also Stern, *Parables*, 19, who refers to the traditional God/king symbolism: in the Hebrew Bible and in prayer texts God is presented as the 'king of the world'.

his master to fulfil such a command, since the master would assume that he is able to do so, and he tries to do it but fails, he will only do damage and incur his master's anger, which will ultimately result in his punishment. The king's orders obviously stand for God's commandments here. On the metaphorical level the parable implies that God is not like the king but gives only such orders which he knows that his slaves, that is, human beings, can fulfil. The Tosefta uses the parable to explain why women are not obliged to perform the same ritual obligations as men: if they were obliged and unable to fulfil them, God would be angry; therefore they should be glad to be free of such obligations. This does not prevent men from thanking God for not having made them a woman, though (see *ibid.*).

Another tannaitic parable compares two slaves with regard to their reaction to the king's order:

A parable concerning a king who had two slaves. And he decreed over one of them that he should not drink wine for thirty days. He [the slave] said: 'Since he has decreed over me that I shall not drink wine for thirty days, I shall not even taste it for a[n entire] year [or] even for two years.' And all of this, why [did he do this]? To weaken the words of his master [כדי לפי דברי רבן]. He [the king] went and decreed over the second [slave] that he should not drink wine for thirty days. He [the slave] said: 'Is it possible that I can be without wine even for a single hour?' And all of this why [did he do this]? In order to cherish the words of his master [כדי לחבב דברי רבן] (Sifre Deut. 28).

The two slaves react to the same order in different ways. The first one does much more than he is required to do: he remains abstinent not only for thirty days but for a couple of years.⁷ Instead of being praised for this behaviour, he is criticized by the narrator of the parable: by maintaining that he can be even more strict with himself than required by his master he diminishes the value of his master's order. The second slave acknowledges the difficulty involved in being obedient to the king's demand. He thereby increases the value of observance. Again, the king's orders seem to stand for the commandments of the Torah. The parable seems to be directed against those who act more strictly than the Torah requires, that is, against *chassidim*. It suggests that one

⁷ One may assume that in reality, only those slaves who stood at the top of the servile hierarchy, e.g. as their upper-class master's personal assistants, will have had access to wine in a regular way. For all of the others wine must have been an unavailable luxury.

should rather focus one's intention on the commandments themselves and to try to fulfil them with the proper dedication they require. In its midrashic context the parable serves to illustrate Deut. 4: 23–9: by insisting on crossing the Jordan and seeing the land on the other side Moses allegedly expressed his love for God like the slave who thought that he could not be without wine for a single hour.

In an amoraic parable, which the midrash also links to Moses, the slave's special efforts on behalf of the king are said to have been properly rewarded:

To what can the matter be compared? To a king who commanded his slave and said to him: 'Build me a palace.' On everything which he built he wrote the name of the king. He built the walls and wrote on them the name of the king. He set up pillars and wrote on them the name of the king. He roofed it with beams and wrote on them the name of the king. After some time the king entered the palace. On everything which he saw he found his name written. He said: 'My slave has done me all this honour, and I am inside while he is outside. Call him that he may come inside!' (Lev. R. 1: 7)

The slave honoured the king by putting his special imprint on every part of the new building. By writing the king's name on the building parts the slave did not only express the king's ownership of the property but also commemorated him and propagated his rule. The king is said to have been impressed with the honour the slave accorded him and to have rewarded him by inviting him inside. One may assume that this parable was told to motivate Jews to not only observe the Torah but to proclaim God's rulership and ownership of everything there is. The editors of *Leviticus Rabbah* associated the parable with God's commandment to Moses to build the tabernacle for him (cf. Exod. 38: 22 ff.). According to the rabbis, Moses did God honour by writing on the tabernacle, 'As the Lord commanded Moses'. Therefore God allowed him to enter its innermost part.

THE COMPARISON BETWEEN THE KING'S SLAVE AND SON

In Lev. R. 1: 15 two parables about a king's relationship to his slave and his children are contrasted with each other:

A parable. To what may the matter be compared? To a king of flesh and blood who was angry at his slave and ordered him to be confined in prison. When he gives instructions to the agent, he gives instructions only from outside.

The following parable, on the other hand, deals with a king 'who is pleased with his children and members of his household, and his children and the members of his household are pleased with him'. In this case 'when he gives instructions to the agent, he gives instructions from inside only, like someone who takes his son on his lap and like someone whose hand is on his son[']s head']. Here the images of the disciplining master and the loving and caressing father are set side by side as two ways in which God deals with Israel. They reflect two aspects of the same relationship. He may either issue his commandments like a slave owner, in a strict and demanding way, or like a father, who tries to convince rather than force his son to do what is good for him. In the context of the midrash the two ways in which God reacts are related to the burning bush incident, on the one hand, and the tent of meeting scene, on the other—that is, the parable's meaning is narrowed down.

A similar contrast is drawn in a midrash transmitted in Pes. R. 27(28): 3. In this text God's treatment of Israel as a son or slave is said to be dependent on Israel's obedience or lack of it:

Another matter: 'Listen to your father' who is in heaven. 'This is my God', this is [the one who] begot you and treats you as an only child; and if not [that is, if you do not listen to him] he treats you like slaves . . . When you do his will, [he is] your father and you are his son; but if not, he will force you and you are his slave, as it is said: 'Is Israel a slave? Is he a home-born slave?' [Jer. 2: 14]. Therefore listen to him and it will be good for you. Listen to your father. 'Hear the word of the Lord.'

These parables show that the father-son and master-slave relationships provided forceful images which could be used to illustrate the various facets of God's relationship with Israel. In real life the son's and slave's situation as dependants of the *paterfamilias* was similar in some regards and different in others, as shown above.⁸ The narrators play with the partly identical and partly diverse connotations of slave and son by identifying Israel with sons in some parables and with slaves in others and by contrasting the two in one and the same narrative. In this way

⁸ See Ch. 6 above.

they express various aspects of their experience with God in a metaphorical language which had its basis in the social reality of everyday life.

Why rabbis may have sometimes considered the master–slave rather than the father–son imagery more appropriate for explaining Israel's relationship with God is made clear in the following parable:

To what may the matter be compared? To a king, the son of whose beloved was taken captive. But when he redeemed him, he did not redeem him as a free person but as a slave, so that if he issued a decree and he would not accept it, he would say to him: 'You are my slave.' When he entered a city, he said to him: 'Tie my sandals', and: 'Carry before me utensils to bring [them] to the bathhouse.' The [friend's] son began to complain. He [the king] brought out against him the deed and said to him: 'You are my slave.' Likewise, when the Holy One Blessed Be He redeemed the seed of Abraham, his beloved, he did not redeem them as sons but as slaves. When he issues a decree and they do not accept [it], he can say to them: 'You are my slaves' (Sifre Num. 115).

Although the Israelites are in reality sons of God's beloved Abraham, they are treated as slaves in order to make them obey God's commandments. The assumption is that the master has more power over the slave than the father over the son, that is, the image of the authoritative master is preferred to the image of the lenient father here. Whether this image of God was stressed in contradistinction to Christianity, which put more emphasis on the father–son relationship, is possible but cannot be determined any more.⁹ It is clear, though, that in both rabbinic Judaism and early Christianity both images, that of the merciful father and that of the authoritative master were two sides of the same coin.¹⁰ The parable's preference of the master image seems to be due to its intended message, namely, God's power to punish disobedience.

⁹ On the Christian usage of the master–slave and father–son imagery see Peter Garnsey, 'Sons, Slaves—and Christians', in Beryl Rawson and Paul Weaver (eds.), *The Roman Family in Italy. Status, Sentiment, Space*, Oxford 1997, 101–21. The comparison appears already in Gal. 4: 1–7.

¹⁰ Garnsey, 'Sons', 108, quotes Lactantius, *Divine Institutes* 4. 3. 14–15 in this regard: 'Therefore one God is to be worshipped, who can truly be called 'father'. The same must also be 'master', because just as he can show mercy, so too can he coerce. He deserves the name 'father' because he showers on us many and great gifts; but he is equally master, because he has the supreme power of chastisement and punishment. That master and father are one is established by civil law doctrine.' The son–slave comparison also appears in Augustine's works, see *ibid.* 112–19.

In a parable in *Sifre Deut.* 38 two sons are compared with regard to their relationship to the king:

A parable concerning a king who was walking on the road and saw a son of distinguished parents and handed a slave over to him to serve him. Again he saw a son of distinguished parents, nicely garbed and scented, and occupied with [physical] labour, and he knew him and his parents. He said: '[I issue] a decree that I myself shall take care [of him] and provide him with food.'

Both young men are described as 'sons of distinguished parents' here but in the case of the second one the king 'knew him and his parents', that is, he maintained a personal relationship to the family. The king takes care of both young men, but treats the second one better by caring for him himself. In the midrashic context the parable is used to show that God takes special care of the land of Israel ('people sleep in bed and the Omnipresent brings rain down for them'), whereas the land of Egypt and other lands are cultivated by slaves. The parable itself already seems to distinguish between Israel and the nations with regard to their closeness to God and God's custody of them.

While being identified as 'son of distinguished parents' in one parable Israel is considered the 'slave of God' in another. An important difference between God and worldly masters, already stressed by Philo, is pointed out by rabbis as well. In the continuation of the text *Sifre Deut.* 38 contrasts God with worldly masters:

A person of flesh and blood buys slaves for himself so that they shall feed him and take care of him, but He who spoke and the world came into being buys for himself slaves whom he himself feeds and takes care of.

Obviously the previous parable's motif of God taking care of human beings is continued here. Not God as the master but human beings as his slaves profit from this type of enslavement. God humiliates himself so much that he performs slave work for his own slaves. The parable is followed by a story about R. Eliezer, R. Yehoshua, and R. Zadoq who reclined at the banquet of R. Gamliel's son. When R. Gamliel began to mix a cup of wine and handed it over to R. Eliezer, the latter refused to accept it because of R. Gamliel's hierarchical superiority over him. Thereupon R. Yehoshua remarked that even Abraham served others (that is, the angels who visited him and whom he mistook for ordinary men, cf. *Gen.* 18: 2). And R. Zadok pointed to the example of God

himself who serves human beings by causing rain to fall and crops to sprout. If it is not shameful for God to behave like a servant, neither should it be shameful for R. Gamliel. Thus the story, especially in connection with the parable, is used by the midrashic editors to legitimize the slave-like service of rabbis.

The topic of the master taking care of his slaves also reappears in other rabbinic parables. For example, in the following:

R. Shimon b. Yochai said: A parable concerning a king of flesh and blood who had many children and slaves. And they would be fed and taken care of by himself and by the openings of his storage house. When they did his will, he would open the storage house and they would eat and be satisfied, and when they did not do his will he would lock the storage house and they would die of hunger (Sifre Deut. 40).

No distinction is made between the king's children and his slaves here. Both are said to be taken care of by the king. For both of them the king's maintenance and support depends on their behaviour towards him. If they obey his will, they will be fed, if not, they will go out empty-handed. The parable seems to be based on the phenomenon, discussed above, that the status of children and slaves within the family was similar in certain regards. Neither owned property themselves but were dependent on the *paterfamilias*' support and goodwill which he could either grant or withhold from them. Therein lay his power and authority. Since only Israel is obliged to observe the Torah as God's will, it seems that Israel is compared to both children and slaves of God here. As we have already seen from the preceding parables, both metaphors could be applied to the relationship. Here both are used in one and the same parable. This is also the interpretation suggested by the midrashic editors who relate the parable to Deut. 28: 12: when Israel carries out God's will, he will 'open the heavens' and cause rain to fall; otherwise the heavens will remain closed (cf. Deut. 11: 17). As already observed in connection with other parables above, the midrashic context tends to narrow down the parable's meaning by associating it with particular circumstances (such as rainfall here).

Many different versions of the parabolic son-slave, son-son, slave-slave comparison exist. They usually focus on the slaves' and sons' observance or non-observance of the king's commandments and on the king's subsequent treatment of them. The theme continues in

parables attributed to amoraim, such as the one transmitted in the name of R. Abbahu in Gen. R. 2: 2:

R. Abbahu said: [The matter may be compared] to a king who bought himself two slaves, both on a single bill of sale and at a single price. Upon one [of them] he decreed that he should be sustained on the public charge [מטימין],¹¹ and upon one he decreed that he should work and eat. He sat down confused. He said: The two of us were bought for the same price. [And now] this one is sustained on the public charge, while I [have to earn a living] through my work?

Unlike the children and slaves in the previously quoted parable, the two slaves of this parable are not said to have differed from each other with regard to the work they were doing for the king. They are described as having been exactly the same when the king acquired them. Nevertheless the king treated them differently, a phenomenon which the ancient listener or reader would have perceived as unjust. At the same time the ancient audience knew that the unjust treatment of slaves was an expression of ancient slave master's power and authority over them. The slave owner could do with his slaves whatever he wanted and treat them badly without providing a proper reason for doing so. Is the parable meant to criticize the king/God for being unfair, unrighteous, and biased then? It rather seems to express God's sovereignty, his right to deal with his creatures in whatever way he wants, in ways which are not always fully intelligible to human beings. In the midrashic context the parable is cited as an illustration of Gen. 1: 2: 'And the earth was unformed . . .'. The creatures of the upper and lower world were created at the same time. While the creatures of the upper world are able to partake of the splendour of the Divine presence, those of the lower world have to labour hard in order to be able to make a living.¹²

¹¹ From Greek *ταμείον*, 'treasury, esp. Roman *aurarium*, *fiscus*': Marcus Jastrow, *Dictionary of the Targumim, Talmud Bavli, Yerushalmi and Midrashic Literature*, New York 1985, 539.

¹² In Gen. R. 2: 2 the parable is followed by another version of the same tale: 'R. Yehudah b. Simon said: [The matter may be compared] to a king who bought himself two slave girls, both on a single bill of sale and with a single price. Upon one [of them] he decreed that she should not move from the palace, and upon one he decreed banishment [from the palace]. She sat down confused. She said: The two of us were bought on a single bill of sale for the same price. This one does not move from the palace, while upon me he decreed banishment?' In the midrashic context this parable is associated with the creatures of the upper and lower world as well: whereas the former are immortal (they remain in the palace), the latter are destined to die (they are removed from the palace).

The parables are able to express various nuances of the relationship between God and human beings. While some parables express God's mercy, others express his sovereignty and liberty to punish or reward just as he pleases. The following parable, which Lev. R. 12: 1 transmits in the name of R. Pinchas and R. Levi, is especially difficult to fathom by modern readers:

R. Pinchas said in the name of R. Levi: . . . [This may be compared] to a king who had appointed a faithful domestic. And when his guardian stood at the door of a shop [or: tavern], he severed his head in silence and appointed another domestic in his place. And we only know why he killed the first one from what the king commanded the second, saying to him: Do not enter the shop [or: tavern]. [From this] we know that because of this he killed the first.

The king's punishment of the first slave seems overtly cruel to us, especially in light of what the slave did: why would his standing at the door of a shop or tavern be considered worthy of such cruel punishment? The last sentence of the parable provides some explanation for this behaviour: the assumption is that like the second slave the first one was explicitly warned against entering the shop or tavern and nevertheless entered the doorway. He may have misunderstood the king's prohibition or deliberately acted against it. What actually happened and why he was forbidden to enter the building remains obscure. It is not explicated in the parable because it does not add anything significant to the parable's meaning. The one who disobeys the king's/God's orders, whatever they are and for whatever reason they were given, will bring severe punishment upon himself. Again, the parable is not meant to represent God's cruelty; it is rather meant to express his right to punish and human beings' necessity to follow his orders whatever they may be.¹³

ESCAPE AND ATTACHMENT

Two parables employ similar motifs and may be parallel versions which nevertheless express different ideas. They both deal with slaves of priests

¹³ See also the following parable transmitted in Sifre Deut. 48: 'A parable concerning a king of flesh and blood who caught a bird and handed it over to his slave. He said to him: "Keep this bird for my son. If you lose it, do not assume that you have [only] lost a bird worth an issar, but [it is] as if you have lost your life."'

and cemeteries. The first parable is tannaitic and transmitted in the Mekhilta:

A parable concerning the slave of a priest who fled from his master. He said: I shall go to the cemetery, a place to which my master cannot come after me. His master said to him: I have Canaanite slaves who can come after you.¹⁴

Since priests are not allowed to enter cemeteries where they would inflict ritual uncleanness upon themselves, the slave assumes that the cemetery would be a safe place where his master would be unable to follow him. His hopes are disappointed, though: the master can easily commission other slaves to enter the cemetery and catch him. That the parable features a priest as the master rather than a king does not have any significance for its metaphorical meaning: just like the king of other parables the priestly slave owner stands for God here and the slave for Israel. The parable seems to convey the message that one cannot evade God's surveillance. There are no areas which are inaccessible to him, where he cannot take his slaves to task. The cemetery may symbolize places of idolatry. In the midrashic context the cemetery is associated with the Diaspora: just as the priest would not visit cemeteries, the Divine presence (*Shekhinah*) does not reveal herself outside of the land of Israel. The slave is compared to Jonah who 'started to flee to Tarshish from the Lord's service' (Jonah 1: 3).

Similar motifs are employed for an entirely different purpose in a parable transmitted in the Buber edition of Midrash Tanhuma:

R. Levi said: To what may the matter be compared? To a priest who had a slave. [When] the priest left the country, his slave went to look for him amongst the graves. He began to cry: My master, my master! They said to him: Who is your master? He said to him: Such-and-such a priest. They said to him: [You are the greatest] fool in the world! You look for a priest in the cemetery?¹⁵

Here the slave does not try to escape from his priestly master but, on the contrary, tries to follow him. He is depicted as a slave very attached to his master who suffers from the latter's absence from his home. In his despair he tries to find him but looks in exactly the wrong place, where his master would never spend his time. This parable seems to warn people against looking for God in the wrong places (idolatry? magic?) where he would never be found. This is also the meaning which the

¹⁴ Mekhilta Pisha Ba 1.

¹⁵ Tanh. B. Shemot 2: 2 (Wa'era).

literary context attributes to the parable: it is useless to seek God amongst false gods who are dead; the real God, on the other hand, is everlasting (cf. Jer. 10: 10). The implication is that a clever slave would know where to search for his master, namely in the Torah.

A parable which is reminiscent of the New Testament parable of the talents (Matt. 25: 14–30 par. Luke 19: 12–27) appears in Sifre Deut. 8:

A parable concerning a king who gave a field as a gift to his slave. He gave it to him only as it is [כמות שהיא]. The slave went and improved it and said: 'What I have was given to me only as it is.' He [the slave] went and planted a vineyard and said: 'What I have was given to me only as it is.'

The slave made good use of the gift he had received from his master and improved it significantly. The story may imply that he may keep the revenue of the vineyard for himself.

The New Testament parable of the talents is more elaborate than the midrashic tale. Different slaves are compared with regard to their use of the talents they received. While those who had received a number of talents went ahead and increased them during their master's absence, the slave with the one talent hid it so that it might not get lost. At the end those slaves who increased their master's property are praised and raised to higher positions whereas the slave with the one talent is scolded and punished. He is said to have acted out of fear of losing rather than risking a lot and gaining more. This parable seems to be based on the phenomenon of the *peculium* which allowed slaves to do business on their master's behalf. In the rabbinic parable, on the other hand, the slave is said to have received the field as a gift, that is, he seems to have become the actual owner of the property. In both parables the slaves' improvement of whatever their master gave them is emphasized. The improvement is to the slave's own advantage and encouraged by the parables. On the metaphorical level the difference between the gift and the *peculium* may be irrelevant. What matters is the master's/God's endowment of his slave/human beings with something, a property or talent, that can be used and improved. Both parables stress the advantages of making good use of what one owns. To refrain from using what one has received from God is almost equalled to disobedience towards one's master in the gospel tale. In the rabbinic parable's midrashic context the gift is associated with the land which God gave the patriarchs Abraham, Isaac, and Jacob. Each of the patriarchs improved the land on his own account (cf. Deut. 1: 8).

THE PEDAGOGUE AND THE KING'S SON

A relatively large number of parables transmitted in amoraic Midrashim address the topic of the pedagogue or wet-nurse in a king's household and their relationship to the king and the king's son under their care. The realia of these parables, that is, the ways in which they reflect ancient upper-class people's anxieties over the proper care of their children, have already been discussed above.¹⁶ Here the theological impact of these parables will be elucidated. How do they fit into the king/God and slaves/human beings scheme developed in the other slave parables presented above? Whom does the pedagogue or wet-nurse stand for on the metaphorical level?

One possibility is to understand the pedagogue parables on the basis of the 'slave of God' metaphors in Deutero-Isaiah's writing. The 'slave of God' is presented as a teacher supposed to provide proper instruction to others: 'This is my slave, whom I uphold . . . I have put my spirit upon him. He shall teach the true way to the nations' (Isa. 42: 1); 'He shall not grow dim or be bruised until he has established the true way on earth. And the coastlands shall await his teaching' (ibid. 42: 4). The 'slave of God' seems to stand for Israel here (see esp. 42: 6, where the 'covenant people' is mentioned). Israel is supposed to teach the nations the 'true ways' of God and may experience suffering during this process. If the pedagogue metaphor of the parables is based on Deutero-Isaiah, the parables would thematize Israel's duty to teach the nations, and the responsibility and submission under God's guidance which this teaching involves.¹⁷ What is not entirely fitting with this theory, though, is the predominantly negative depiction of the pedagogue, who is often criticized for leading the king's son astray.

Another possibility is that the pedagogue and wet-nurse featured in these parables stand for intermediaries between God and human beings, that is, for religious leaders of whom the rabbinic authors of the parables disapproved. The parables would then provide a cogent criticism of the ways in which these intermediaries might abuse the power they

¹⁶ See Ch. 6 above.

¹⁷ In modern Judaism this notion has been propagated as the 'Mission of Israel'. On this concept see Michael A. Meyer, *Response to Modernity. A History of the Reform Movement in Judaism*, Detroit 1988, 137–8.

possessed over the community. Instead of caring for and benefiting the community, they might cause them harm. The parables claim that such evil behaviour will not go unpunished, that the harmful 'pedagogues' will eventually be chastised by God. This usage of the slave/pedagogue metaphor would then be similar to the use of the metaphor in some New Testament parables. According to C. H. Dodd, these parables were used to criticize religious leaders of Jesus'—and the later Christian community's—own time.¹⁸

In the rabbinic parables the pedagogues are mostly depicted in a negative way. The parable in Gen. R. 28: 6 can serve as an example of this representation:

R. Yudan said: [The matter may be compared] to a king who handed his son over to a pedagogue and he led him into evil ways. The king became angry with his son and killed him. The king said: Nobody has led my son into evil ways but this one. [Now] my son has perished and this one [still] exists. Therefore [Scripture says:] '[I will blot out . . .] man and beast' [Gen. 6: 7 = seder verse].

The pedagogue is said to have done the opposite of what he was hired for: instead of educating the son and teaching him good manners, he 'led him into evil ways'. As a consequence, the king got so angry with his son that he killed him. Then he realized that it was the pedagogue who had caused his son's misbehaviour. The implication of this realization probably is that he would have punished the pedagogue by killing him as well. The midrashic connection of the parable with the seder verse Gen. 6: 7 does not seem to fit the meaning of the parable as an independent unit very well. In connection with the seder verse the pedagogue should probably be identified with the 'beast' of the creation story (because of the association between slaves and animals?). For the parable as an originally independent unit the pedagogue/beast analogy is very unlikely, though. If we assume that the pedagogue, who was appointed by the king to take care of his son, stands for the religious leader here and the son for the member of the Jewish community, the parable would criticize leaders who seduced Jews to whatever the rabbinic authors considered 'evil ways', non-observance of the Torah, engagement in idolatry, or immorality. The parable indicates to these

¹⁸ See the discussion in Weiser, *Knechtsgleichnisse*, 22.

leaders that their behaviour will not go unnoticed and that they will eventually be punished like the ones they misguided.

A similar message seems to be conveyed by a number of other, slightly different but nevertheless related pedagogue parables. In the two variant versions of the same parable transmitted in Gen. R. 31: 7 the pedagogue/nurse is said to have been punished whenever the king's son misbehaved. Again, the connection with the seder verse (Gen. 6: 13: 'Behold, I will destroy them with the earth'), which suggests identifying the pedagogue with the earth, seems to be rather far-fetched and insensitive to the parable's meaning. Here, too, the criticism of certain types of leader seems to be a more appropriate understanding as far as the parable itself is concerned.

In one parable the pedagogue is even said to have hated the son and to have considered what would be the best way to kill him without incurring the king's punishment:

[The matter may be compared] to the son of kings whose pedagogue hated him. He said: If I kill him now, I shall be liable to the death penalty before the king. Behold, I shall withdraw from him his wet-nurse, and he shall die by himself (Gen. R. 42: 3 par. Lev. R. 11: 7).

Slight variants of the same motif exist as well. In another case it is the son who wants to kill the king:

R. Abba b. Yudan said in the name of Rabbi:¹⁹ [This may be compared] to the son of kings who became very overbearing and took a sword to cut his father. The pedagogue said to him: 'Do not trouble yourself. Give me [the sword] and I shall cut [him]' ... (Lev. R. 10: 3).

The king is said to have understood the slave's motives: he wanted to save the son from committing a grave sin and stood in as a substitute for him. This behaviour is considered brave and praiseworthy. The king rewards the slave by letting him live in his palace for the rest of his life and by providing him with food from his table: 'And what remains from my table you shall eat ...'. The slave's substitution for the son in order to save him is very reminiscent of Graeco-Roman slave stories. In those stories slaves stand in for their masters in battles to save their lives.²⁰ The parable is a succinct reflection of the ambiguities which characterized

¹⁹ MS variants exist.

²⁰ See Ch. 7 above.

master–slave relationships: the slave was potentially dangerous but could, at the same time, become the saviour of the family.

Only rarely is the pedagogue presented in a neutral way, that is, as neither sinful nor especially praiseworthy. This is the case in a parable where his proper tasks are described: his function is to take proper care of the son, to make sure that he is well nourished and properly educated (cf. Lev. R. 2: 5 par. PRK 2: 7). The parable suggests that the religious leader's tasks are clearly defined, and that he has to adhere to them in order to avoid evoking God's anger.

The rabbinic slave parables would merit a more detailed study than is possible in this context. A comparison between Palestinian and Babylonian slave parables and between rabbinic slave parables and the slave parables of the gospels would be very profitable. Besides evaluating the parables' realia and social context one should compare the images and motifs employed, the ways in which they are used to convey certain messages, the thematic focus, and the redactional adaptation of the originally independent units. Such a study would not only advance the form- and redaction-history of rabbinic literature but also provide important new insights into rabbinic theology.

Slavery and the Exodus Experience

THE biblical story about the Israelites' enslavement in Egypt and eventual liberation by God obtained central significance in post-biblical Judaism as evidenced by the numerous paraphrases, allusions to, and creative adaptations of it in ancient Jewish writing. The Exodus became the paradigm not only for freedom from physical slavery, but for political freedom, spiritual freedom, and freedom from oppressing desires and emotions as well. In the time after the destruction of the Temple and the Bar Kokhba revolt rabbis sought for meanings behind the Exodus story which would explain their and their fellow-Jews' oppression by the Romans and help them maintain their hope for an eventual end of foreign rule. By transforming the Temple-centred rite of the Passover sacrifice into a family gathering centred around a ritual meal they were able to give the annual remembrance of the Exodus a new form and meaning, suited to their own time and place. The ritual celebrated the equality of human beings before God, irrespective of their gender or status as slaves or free people. During the symbolic time of the seder, slaves were allowed to recline next to their masters and masters were invited to contemplate their own enslavement and liberation. Whether and to what extent this ritual had a socially transformative function in that it engendered compassion for the plight of the enslaved is questionable, though.

THE EXODUS STORY IN THE BIBLE

In the Hebrew Bible the story of the Exodus of the Israelites from Egypt is presented as the continuation of the Joseph story: When Joseph had risen to a prominent rank at Pharaoh's court, his father and brothers came to Egypt with their households and eventually decided to settle

there themselves and to continue their occupation as breeders of livestock (cf. Gen. 46: 31–4). At the time of his death Joseph is said to have prophesied to his brothers that God would eventually bring them out of Egypt again, ‘to the land that he promised on oath to Abraham, to Isaac, and to Jacob’ (Gen. 50: 24). Although Joseph started out as a slave, it is never explicitly said that the families of his father and brothers became enslaved to Pharaoh as well. Pharaoh permitted their settlement in his country and asked for ‘capable men among them’ to be put over his livestock (cf. Gen. 47: 5), but they are not said to have lived in a state of slavery. Rather, ‘Joseph settled his father and brothers, giving them holdings in the choicest part of the land of Egypt, in the region of Rameses, as Pharaoh had commanded’ (Gen. 47: 11). In the course of time their families increased: ‘the Israelites were fertile and prolific; they multiplied and increased very greatly, so that the land was filled with them’ (Exod. 1: 7).

Eventually a new Egyptian king came to power who grew resentful of the Israelites and started to oppress them. In order to prevent any further population increase ‘they set taskmasters over them to oppress them with forced labour; and they built garrison cities for Pharaoh’ (Exod. 1: 11). When this forced labour did not prevent the Israelites’ increase in numbers, the king employed even harsher methods: ‘The Egyptians ruthlessly imposed upon the Israelites the various labours that they made them perform. Ruthlessly they made life bitter for them with harsh labour at mortar and bricks with all sorts of tasks in the field’ (1: 14). In the following chapters Moses is portrayed as the one who eventually led the Israelites out of Egyptian slavery, guided by God (Exod. 2 ff.).

The necessity of remembering this journey towards liberation is mentioned repeatedly in the Torah from Exod. 12–13 onwards. In Exod. 12 the Israelites are recommended to celebrate a seven-day festival of unleavened bread in commemoration of the Exodus (cf. Exod. 12: 17). In the same chapter, the slaughter of a Passover offering is mentioned (cf. 12: 21) as a rite to be performed ‘for all time’, throughout the generations (v. 24). God’s liberation of the Israelites from Egyptian slavery becomes the catch-phrase to which further customs, such as the prohibition to eat leavened bread, are linked: ‘And Moses said to the people: Remember this day on which you went out from Egypt, from the house of slavery; how the Lord brought you out from it

with a mighty hand . . . ' (Exod. 13: 3). This motto is repeated over and over again in different contexts throughout the Bible: Israelites should always remember that they were slaves in Egypt and that God freed them from oppression.¹

One consequence of this experience already alluded to in the Bible is the commandment not to treat other Israelites as slaves, even if poverty forces them to sell themselves, 'for they are my slaves, whom I freed from the land of Egypt; they may not give themselves over into servitude' (Lev. 25: 42). Hebrew slaves should be released in the seventh year and not go out empty-handed (cf. Deut. 15: 15). One should respect the rights of strangers, orphans, and widows (Deut. 24: 17–18) and leave over some produce of one's field or vineyard for the poor (Deut. 24: 19–22). The Exodus experience serves as a motivating force for morally guided behaviour here. Whether these ideals and recommendations were actually practised by Israelite slave owners cannot be derived from these texts.

MIDRASHIC ADAPTATIONS

The biblical Exodus story is paraphrased and commented upon by Philo in *De vita Mosi*. Philo already noticed that a proper enslavement of Joseph's father and brothers is never mentioned in the Bible. Joseph had a high position at Pharaoh's court and the families of his father and brothers were allowed to settle as free people. Eventually the Israelites, who were rulers over the country (cf. Joseph), were turned into slaves, that is, their status was overturned completely (cf. *ibid.* 1. 36). They were treated as if the Egyptian ruler had acquired them as captives during a war, or as if he had bought them as slaves from their former owner (*ibid.*). But in reality they were neither; they had rather moved to Egypt to find shelter and a safe settlement place. The Egyptians' illegal enslavement of originally free persons is emphasized here.

In Philo's writings and other Greek Jewish literary texts the model of the Exodus from Egypt is applied to other forms of enslavement as well.

¹ See also Lev. 25: 42; 26: 13; Deut. 5: 6, 15; 6: 12, 21; 7: 8; 8: 14; 13: 6; 15: 15; 24: 22; Josh. 24: 17; Jer. 34: 13; Judg. 6: 8, Mic. 6: 4.

In his allegorical interpretation of Scripture Philo understands Egypt as a symbol for bodily desires:

When He led us forth out of Egypt, that is, out of our bodily passions, . . . we encamped at Marah, . . . for the delights that come by way of the eyes and ears and that of the appetite and sexual lusts bewitched us with their haunting music, ever ringing in our ears. And whenever we wished wholly to sever ourselves from them, they would pull against us, drawing us on and gripping us, and persistently casting their spells over us, so that, giving in to their unceasing efforts to subdue and tame us, we came to abhor labour as utterly bitter and repugnant, and we planned to retrace our course and return to Egypt, the refuge of a dissolute and licentious life; and we might have done so had not the Saviour, anticipating us, taken pity on us . . . (*The Posterity and Exile of Cain* 155–6).

The liberation from Egypt must then be seen as a liberation not only from physical slavery but also from enslavement to one's own desires and emotions.² The Exodus is incorporated into Philo's theory of spiritual enslavement: only the one who acquires Divine wisdom will be able to control his desires and achieve true freedom from enslavement.

In the *Testament of Joseph* Joseph is presented as a paradigm for God's redemption of human beings: 'And where the Most High dwells, even if envy befall someone, or slavery or false accusation, the Lord who dwells with him on account of his self-control not only will rescue him from these evils, but will exalt him and glorify him as he did for me' (Test. Jos. 10: 3). Physical slavery is listed as only one of the evils from which God liberates human beings. Envy and false accusations are 'bondages' which require God's liberating action as well. The Stoic concept of human self-control is introduced as a prerequisite for Divine liberation: the one who is able to practise self-control can reckon with God's support. Human self-liberation and liberation through God supplement each other here.

² Ruth Naomi Sandberg, 'The Merit of Israel and the Redemption from Egypt: A Study of a Rabbinic Debate', Ph.D. thesis, University of Pennsylvania 1988, 32 n. 29, notes that Egypt also appears as a symbol of negative desires and vices in patristic literature. Ambrose, for example, interprets the crossing of the Red Sea as 'the passing over from vices to virtues, from the desires of the flesh to grace and sobriety of mind'.

Post-biblical Jewish literature usually presents Israel as unjustly enslaved in Egypt and worthy of redemption by God.³ The book of *Jubilees* emphasizes that during Joseph's lifetime relations between the Israelites and the Egyptians were good.⁴ Later, however, the 'holy people' had to suffer from Egyptian oppression and encountered numerous difficulties.⁵ Ezechiel the Tragedian relates, for example, that the Israelites were forced to produce bricks for Pharaoh's building activities, to fortify his cities.⁶ The Israelites were subject to the Egyptians' injustice, and this injustice was reason enough to justify their liberation.

This interpretation is also reflected in Josephus' works. In *Antiquities* the virtuous Israelites are contrasted with the Egyptians who are 'slaves to pleasure' (*Ant.* 2. 201). The above-mentioned Stoic usage of the slavery metaphor, to describe negative mental states, seems to underlie this depiction. Josephus' work *Contra Apionem* was meant to refute anti-Jewish presentations of the Israelites' enslavement in Egypt brought forth by Apion and Manetho. Peter Schäfer has shown that the anti-Jewish interpretation of the Exodus from Egypt can be traced back to the early third century BCE and first appears in Hecataeus of Abdera's writing.⁷ In Manetho's two versions, discussed and compared by Josephus (cf. *C. Ap.* 1. 75 ff.), the Israelites are associated with the Hyksos who allegedly invaded Egypt from the East and oppressed the native population. The Hyksos are portrayed as shepherd-kings who overpowered the Egyptian rulers, 'carrying off the wives and children of others into slavery' (ibid. 76). They were eventually expelled from Egypt and moved to Judaea where they founded Jerusalem and built the Temple. Manetho's description of the violent behaviour of the Hyksos kings toward the Egyptian population stands in direct opposition to the biblical Exodus story where the Israelites are said to have been oppressed and enslaved by the Egyptians. Schäfer points to the common anti-Jewish stereotype of *misanthropia* which may have influenced this account.⁸ Elsewhere Manetho wrote that the Hyksos were captives, and 'in this statement', Josephus comments, 'he was correct' (cf. ibid. 91). Josephus accepts some aspects of Manetho's account but rejects

³ See ibid. 8.

⁴ *Jubilees* 46: 1.

⁵ See Sap. Sal. 17: 2.

⁶ See Ezechiel the Tragedian, *Exagoge* 4–13.

⁷ Peter Schäfer, *Judeophobia. Attitudes Toward the Jews in the Ancient World*, Cambridge, Mass., and London 1997, 15. For a discussion of the traditions see ibid. 15–33.

⁸ Ibid. 19 and 21.

others as fables and lies. Especially offensive is Manetho's further assumption that the Israelites were mixed up with Egyptian lepers and expelled from Egypt on that account (see *ibid.* 229). The implication seems to be that they participated in idolatry as well. According to Schäfer, 'the misoxenia/misanthropia motif and its combination with the impiety motif belong to the very core of both Hecataeus' and Manetho's versions of the Exodus story'.⁹ The leper motif was also put forth by Apion, who views the Exodus as the expulsion of lepers, blind and lame people (cf. *ibid.* 2. 15). Against these anti-Jewish depictions Josephus emphasizes the Israelites' moral integrity and the wisdom of Mosaic law (cf. *ibid.* 2. 170, 199).

When talking about slavery and oppression in general, without special reference to slavery in Egypt, a certain pattern runs through the Testament literature: if human beings act against God's will, they will be punished with famine, slavery, or other catastrophes (cf. Test. Jud. 23: 3–5; Test. Naph. 4: 2; Lives of the Prophets 1: 13). If they behave in accordance with God's will, God will liberate them from slavery, which is presented as the consequence of human sin and liberation from slavery the reward granted to the righteous. The slavery motif is combined with the scheme of punishment and reward, a combination which seems to have developed in Hellenistic times.

After 70 CE the rabbis did not take the biblical depiction of the Exodus for granted but searched for the possible reasons for Israel's enslavement and eventual redemption from oppression. In this connection they repeatedly stressed the Israelites' inclinations toward Egyptian idolatry and the merit of the patriarchs or the Israelites' own eventual trust in God as the reasons for God's intervention. Commenting on Exod. 14: 15 ('Then the Lord said to Moses: Why do you cry out to me ...') the Mekhilta states:

Shemaiah says: The trust [or: confidence, belief: **האמונה**] which Abraham their father had in me deserves that I split the Sea for them, as it is said: 'And he trusted in the Lord and He reckoned it to his righteousness' [Gen. 15: 6]. Abtalion says: The trust which they [the Israelites] had in me deserved my splitting the Sea for them, as it is said: 'And the people believed and heard' [Exod. 4: 31].¹⁰

⁹ Schäfer, *Judeophobia*, 21.

¹⁰ Mekhilta Beshallah 4.

The rabbinic authors of these statements would not consider God's redemptive action self-evident but looked for explanations for his support. They found these explanations in Abraham's belief and righteousness (Shemaiah) or the Israelites' own trust in God and his power of redemption (Abtalion).

Sandberg has shown that the emphasis on Abraham's, other patriarchs', or righteous individuals' merit (זכות) as the basis for God's redemptive action appears over and over again in rabbinic midrash in connection with the Exodus story.¹¹ In the Mekhilta passage just mentioned a statement attributed to R. Yose Hagalili connects the Exodus with Abraham's binding of Isaac: 'By the merit of the commandment which their father Abraham carried out I will split the Sea for them . . .'.¹² Alternative explanations attribute the redemptive merits to Isaac, Jacob, and Joseph, respectively, or to the patriarchs as a group.¹³ The underlying assumption of such statements is that the Israelites themselves were not worthy of being redeemed, which is sometimes explicitly stated.¹⁴ Based on Ezek. 20: 8, some midrashic texts even accuse the Israelites of idolatrous practices in Egypt, for example: 'The Israelites in Egypt were steeped in idolatry' (Mekh. Pisha 5); 'Israel found idolatry in Egypt irresistible' (Lev. R. 22: 8); 'And thus you find concerning Israel that when they were in Egypt they practised idolatry and would not abandon it' (Exod. R. 16: 2).¹⁵ In some midrashim the emphasis on Israel's unworthiness serves to underscore God's grace and forgiveness, or the notion that the redemption took place only for the sake of God's name: 'They were rebellious but He dealt with them charitably.'¹⁶

In contrast to the negative depictions of the Israelites' behaviour in Egypt, some Midrashim stress their virtuous behaviour there which merited Divine liberation. The Mekhilta passage which transmits Abtalion's view (see above) elaborates on the issue and quotes various versions of the notion of Israel's worthiness in the name of different tannaim.¹⁷ A statement attributed to R. Meir, for example, compares God's support of Adam with his assistance of the Israelites at the Red Sea: 'If for one man I made the sea into dry land . . . for this holy

¹¹ Sandberg, *Merit*, 40–91.

¹² Mekhilta Beshallah 4.

¹³ See *ibid.*

¹⁴ See e.g. Exod. R. 1: 34.

¹⁵ For more references see Sandberg, *Merit*, 92–133.

¹⁶ Mekhilta Pisha 16. See also the further references in Sandberg, *Merit*, 103–5.

¹⁷ Mekhilta Beshallah 4.

congregation would I not make the sea into dry land?’ According to Eleazar Hakappar, Israel possessed four virtues which no other people possessed: ‘For they were not suspected of unchastity, or of informing against one another, they did not change their names, nor did they change their language.’¹⁸ While the Mekhilta does not directly associate Eleazar’s view with the Exodus, Lev. R. does: ‘Because of four things was Israel redeemed from Egypt...’ (Lev. R. 32: 5). According to this version, the Israelites’ virtuous behaviour should be seen as the basis of their liberation from Egyptian slavery.

Why were rabbis so interested in searching for the reasons of the Exodus experience rather than taking it for granted and remembering it as such? Perhaps their discussion of the Israelites’ enslavement in Egypt and eventual redemption by God is related to the situation in which they themselves and the Jews of Roman Palestine found themselves after the destruction of the Temple and the Bar Kokhba revolt. Rabbis may have associated Egypt with Roman oppression and the Exodus with the eventual end of foreign dominion, brought about by God rather than by Jews’ own military actions. By inquiring about the reasons for the Israelites’ Egyptian enslavement, they may have contemplated the deeper meanings of their own subjection under Roman dominion. The entire discussion about Israel’s worthiness or unworthiness in Egypt may have also been a discussion about the question whether the present ‘enslavement’ was justified and whether there was hope for a future liberation from Roman rule, if virtuous behaviour, that is, Torah study and observance, increased. In a statement which the Mekhilta attributes to R. Aqiba such hope is expressed:

Likewise you find that wherever Israel was exiled, the *Shekhinah* was exiled with them. When they were exiled to Egypt, the *Shekhinah* was exiled with them, as it is said: ‘I exiled Myself unto the house of your fathers when they were in Egypt’ [1 Sam. 2: 27]. When they were exiled to Babylon, the *Shekhinah* went into exile with them, as it is said: ‘For your sake I sent [myself] to Babylon’ [Isa. 43: 14]... And when they return in the future, the *Shekhinah* will return with them, as it is said: ‘And the Lord your God will return with your captivity’ [Deut. 30: 3].¹⁹

On the basis of this theology of Divine compassion the Exodus could be understood as God’s redemption of himself from slavery. The

¹⁸ Mekhilta Pisha 5.

¹⁹ Mekhilta Pisha 14.

statement confirms the belief in the sheltering presence of God, whether in slavery or in freedom, and the hope that this protection will never cease.

THE PASSOVER RITUAL

After the destruction of the Temple rabbis transformed the ritual remembrance of the Exodus experience and adapted it to post-Temple times. They went about creating 'a precedent for the observance of the celebration without the Temple and the passover sacrifice'.²⁰ The Passover lamb which lay people had slaughtered and eaten together in an evening meal—in contrast to other sacrifices which priests offered on behalf of the community—provided a model for rituals outside the Temple precincts.²¹ After 70 CE the sacrifice was transformed into a ritual meal celebrated within the household and the family. The festival became an entirely private festivity, a joyous gathering in which all members of the household participated, even women, minors, and slaves. One may assume that together with the outward appearance the character and meaning of the celebration underwent changes as well.²² Whereas the ritual remembrance of the Exodus had been a communal experience during Temple times, it seems to have acquired additional, more individualized meanings in the context of family gatherings. Everyone's own identification with the Exodus experience became central.

In tractate Pesahim of the Mishnah, Tosefta, and Yerushalmi elaborate instructions for the proper celebration of the Passover festival are given. Mishnah tractate Pesahim starts with preparations prior to the Passover meal on the fourteenth of Nissan. The search for and subsequent destruction of leaven as well as other parts of the ritual are based on biblical prototypes (for example, not to eat leaven for seven days) but go much further in their detailed discussion of each particular element of the seven-day festival. The main difference between the biblical ritual

²⁰ Baruch M. Bokser, *The Origins of the Seder: The Passover Rite and Early Rabbinic Judaism*, Berkeley 1984, 1.

²¹ See Exod. 12 and Bokser, *Origins*, 8–9.

²² See also Bokser, *Origins*, 79: 'In its 'remythed' form, the message was undoubtedly distinct from any pre-70 version that might have existed, whether a Temple or an extra-Temple context'.

and its rabbinic adaptation is the substitution of the sacrifice by a ritual meal which includes other elements as well. Nevertheless the Mishnah preserves reminiscences of Temple rites related to the Passover commemoration (see, for example, M. Pes. 1: 5–6; 5: 1–7: 13) and discusses these issues as if the Temple were still existing.²³ The slaughtering, roasting, and eating of the Passover sacrifice is broadly discussed (ibid. 5: 1–9: 11), although it could not be performed any more in post-Temple times. The extensive rabbinic discussion of the Passover sacrifice indicates the central importance of this part of the ritual and the need to transform it into a ceremony which did not require the Temple as its setting. For this purpose other elements of the meal such as the unleavened bread and bitter herbs (ibid. 2: 5–6), already mentioned in the Torah (cf. Exod. 12: 8), gain in symbolic significance and are integrated into the ritual meal.

The final chapter of M. Pesahim is devoted to the organization and structure of the meal which became the substitute for the sacrifice after 70 CE (cf. M. Pes. 10). The Mishnah specifies that even ‘the poorest in Israel’ must participate in the meal and drink four cups of wine along with it, a luxury which was supposed to express the joyous character of this occasion (ibid. 10: 1). Another significant difference from ordinary meals as far as social customs were concerned was the participation of women, minors, and sometimes even slaves in the Passover dinner. While women seem to have participated in family festivities, Roman banquets (*symposia*) were usually held as all-male occasions.²⁴ For respectable women it would have been unseemly to join the men of the household in their drinking parties, and even more so for children. Slaves would serve the meals but not join their masters at the table.²⁵

With regard to slaves, the Saturnalia, an annual Roman festival in honour of the god Saturn, constituted an exception.²⁶ According to

²³ See also ibid. 1.

²⁴ See Kathleen E. Corley, *Private Women, Public Meals. Social Conflict in the Synoptic Tradition*, Peabody 1993, 29–45.

²⁵ On the various functions and roles of slaves at formal dinners see John H. D’Arms, ‘Slaves at Roman Convivia’, in William J. Slater (ed.), *Dining in a Classical Context*, Ann Arbor 1991, 171–83. They were usually allowed to eat the leftovers from the dinner table, see ibid. 174.

²⁶ On the Saturnalia see Giuseppe Veltri, ‘Römische Religion an der Peripherie des Reiches. Ein Kapitel rabbinischer Rhetorik’, in Peter Schäfer and Catherine Hezser (eds.), *The Talmud Yerushalmi and Graeco-Roman Culture*, vol. 2, Texts and Studies in Ancient Judaism 79, Tübingen 2000, 123–6.

Lucius Accius' *Annals*, cited by Macrobius, the festival was not a Roman innovation but had its origins in Greece:

The day is kept a holiday, and in country and in town all usually hold joyful feasts, at which each man waits on his own slaves. And so it is with us. Thus from Greece that custom has been handed down, and slaves dine with their masters at that time (Macrobius, *Saturnalia* 1. 7. 37).

There seems to be a contradiction in this text, for how can masters dine together with their slaves while they are waiting on them? Or are two different forms of the ritual alluded to here?

Other passages in Macrobius' account are similarly ambiguous. According to one text, there was a 'practice of slaves taking meals with their masters' (1. 11. 1). Another text suggests, however, that masters and slaves did not share the same table but rather dined consecutively:

Meanwhile the head slave . . . had come to inform his master that the household staff had finished the customary feast; for in houses where religious usages are observed it is the practice at the Saturnalia to compliment the slaves by first providing for them a dinner prepared as though for the master, and it is not until this meal is over that the table is spread again for the head of the household (ibid. 1. 11. 22–3).

Here it is clear that we are not dealing with a shared meal symbolizing status equality. Not even the masters' service of their slaves is explicitly mentioned here. It rather seems that at this particular event the slaves merely receive the luxurious food which they would usually serve their masters. The phenomenon that immediately afterwards the customary order is restored (the masters' dinner begins which the slaves will have been obliged to serve) shows that the exception to the rule only served to foster the normal inequality and hierarchy between masters and slaves.²⁷

How does the slaves' role in the Saturnalia compare to their role in the Passover ritual? As already discussed above, the Hebrew Bible ruled that slaves, in contrast to hired labourers, may eat from the Passover sacrifice as soon as they are circumcised (cf. Exod. 12: 44). Slaves were considered part of the householder's group of dependants and as such included in the gathering for the eating of the sacrificial meal. The Mishnah

²⁷ See also D'Arms, 'Slaves', 176: 'ancient sources are remarkable primarily for revealing the ways in which the Romans successfully continued to keep their slaves at a distance even on this occasion'.

discusses the special cases of half-slaves and slaves belonging to joint owners but seems to assume that ordinary slaves may be included in the *chavurah* for the eating of the sacrifice (cf. M. Pes. 8: 7).²⁸ The biblical requirement of male slaves' circumcision is not stated here but may have been implied. The Tosefta is more specific on these issues and stipulates that slave women have to be immersed (T. Pes. 7: 14) and male slaves circumcised (T. Pes. 8: 18) to eat from the Passover meat themselves and/or allow the householder to eat from it. On this last point a certain lack of clarity remains.²⁹ The Mekhilta explains, however, that uncircumcised slaves would prevent the householder from partaking of the meal.³⁰ Perhaps it was assumed by rabbis at that time that slaves would not participate in the meal anyway, but be occupied with its preparation and service at the dinner table (see also T. Pes. 10: 5, where a waiter, שמש, is mentioned). The proper preparation of the food probably required the slaves' ritual purity which was guaranteed by their circumcision. To disperse doubts in regard to this the Yerushalmi adds a clarifying note to the discussion: a slave who is serving his master may not eat from the meal; when he is not serving his master he may eat (y. Git. 4: 4, 45d). Slaves whose service was required in order to bring the food to the table would be unable to join the family in its ritual meal. No reversal of roles, known from the Saturnalia, is imagined here. The Yerushalmi's solution is very pragmatic: it maintains the general biblical permission for circumcised slaves to participate in the meal; but it also considers the interests of the slave-owning householder who depends on his slaves' service even at the time of the Passover festival. Those slaves who are able to join the family at the dining table are allowed to adopt a reclining position like everyone else, in contrast to their customary way of eating while standing (cf. the statement attributed to R. Levi in y. Pes. 10: 1, 37b), to signify the release from slavery into freedom (see *ibid.*).³¹ Status differences between high-standing

²⁸ This *mishnah* rules that women, slaves, and minors should not eat from the sacrifice in separate congregations. They should rather partake of the meal together with the male Israelite members of the household or community. See also T. Pes. 8: 6.

²⁹ See the discussion in Ch. 1 above.

³⁰ See Mekhilta Pisha 15.

³¹ This also applies to women: every participant in the Passover meal has to eat in a reclining position, 'even a slave before his master, even a woman before her husband' (y. Pes. 10: 1, 37b). The exceptional nature of the equality between women, slaves, and free adult male Israelites also becomes evident in y. Pes. 1: 1, 27b: even women and slaves are to be considered trustworthy with regard to the search for leaven.

slaves within the household, who may eat the Passover meal with the householder and his family, and simple domestics may stand in the background here.

The eating of the various kinds of food and the drinking of wine was supposed to be accompanied by the recitation of benedictions, the Hallel Psalms, and the father's instruction to his son (and the assembled dinner guests) as to the special significance of the day (cf. *M. Pes.* 10: 4), which culminated in the recitation of *Deut.* 26: 5 ff. ('My father was a fugitive Aramean...'), summarizing the Exodus experience from the oppression by the Egyptians to the liberation by God. The *Yerushalmi* further distinguishes between four different types of sons with regard to the proper form of the father's teaching (cf. *y. Pes.* 10: 4, 37d). In the *Mishnah* a statement attributed to R. Gamliel follows (cf. *M. Pes.* 10: 5), emphasizing that the significance of the ritual celebration lies in each participant's self-identification with the Exodus experience: 'In every generation a person is obliged to see him/herself as if he/she came forth out of Egypt him/herself.' Here the originally communal experience of the Exodus is personalized and individualized. In addition, an event of the past receives a contemporary meaning and becomes relevant for every person's own life. The *Tosefta* and *Yerushalmi* continue the discussion of further details of the ritual, its structure, and the texts to be recited (see *T. Pes.* 10, *y. Pes.* 10). An addition introduced by the *Tosefta* is the obligation imposed on men to study the laws of the Passover all night after the conclusion of the meal (cf. *T. Pes.* 10: 11). A story about R. Gamliel and sages in the house of Boethus b. Zonen in Lydda is transmitted in illustration of this ruling (cf. *ibid.* 10: 12).

We do not know what the ancient Jewish participants in the Passover seder associated with slavery and redemption and how they identified with the Exodus generation. The redemption from Egyptian slavery may have kindled some hope that the 'slavery' of Roman rule would eventually come to an end. Yet liberation from Roman oppression is never explicitly mentioned in this connection. Would the self-identification with slaves lead to a more humanitarian attitude towards the slaves of one's own time? The slave owners who commemorated the Exodus during the Passover meal would probably not identify their own 'enslavement' with that of the slaves who served them. They would rather think of enslavement in its political or psychological meanings discussed above. But all of this must remain speculative. Midrashic texts point to

the contradiction between the Exodus experience and the enslavement and sale of originally Jewish slaves,³² but a prohibition against owning Jewish (and gentile) slaves or a mere criticism of the institution of slavery does not seem to have been part of the seder ritual. It is rather assumed that the male family heads who led the seder may have owned slaves, some of whom would be busy serving them on this occasion. For those slaves who were able to participate (in the full meal, or only symbolically, eating not more than 'an olive's bulk' of each item?) the participation in the meal would have constituted a great exception from the ordinary. For these slaves the commemoration of the Exodus would have had a much more concrete and direct significance than for the freeborn members of the household: it would have given them hope, even if only for the brief time of the ritual, that they might eventually obtain freedom themselves. Once a year, during the seder ritual, everyone should experience redemption from slavery to freedom, irrespective of his or her actual standing in this world. The Passover seder can thus be seen as a symbolic celebration of human equality before God.

³² Cf. Sifra Behar parashah 6: 1; *ibid.* perek 9: 4.

Summary

THE experience of slavery seems to have been such a familiar phenomenon in ancient Jewish society that its terminology was also used metaphorically in the religious, social, psychological, and political realm.

In the religious sphere, the self-identification as the 'slave of God' is ubiquitous in ancient Jewish literature from the Hebrew Bible to rabbinic texts. According to these sources, the patriarchs, monarchs, but also common Israelites identified themselves as 'slaves of God', especially in prayers but also on other occasions. This usage of the slavery metaphor is related to the Exodus: as a consequence of God's redemption of the Israelites from Egypt, they should not have any other masters but God. The Israelites' 'enslavement' to God involves the observance of his commandments.

Philo continues the biblical use of the slavery metaphor to describe human beings' relationship with God. But he employs the image of friendship for the special status of the wise vis-à-vis God. The friendship metaphor implies a much closer and more equal liaison. By becoming 'slaves' of the wise other Jews can participate in their closeness to the Divine sphere. Like the biblical writers and Philo late antique rabbis emphasize the exclusivity of God's mastership.

Another usage of the slavery metaphor which may be called psychological is absent from the Bible but very common in Hellenistic Jewish writings. Philo seems to stand within the Stoic tradition with his distinction between physical and spiritual slavery. According to him, true freedom is to be gained through control over one's passions and emotions only, irrespective of whether one is physically enslaved or free. It is therefore possible to be free and nevertheless spiritually enslaved or a slave and spiritually free. The idea of spiritual enslavement also appears in Josephus' writings and in the New Testament, especially in

the letters of Paul. It was not adopted by the rabbis, probably because for them the idea of being a slave and having another master besides God was irreconcilable with (spiritual) freedom.

Self-presentation as the 'slave' of another person of a higher social status, that is, the socio-hierarchical use of the slave metaphor, appears in the introductory formulas of petitionary letters. Although the letter writers applied the term for reasons of convention and etiquette, the practice is nevertheless based on actual status differences between the petitioner and the addressee. It can be considered a symbolic self-humiliation of the client before his more powerful patron for the purpose of gaining something from him. By calling himself the 'slave' of the addressee the letter writer acknowledges the patron-client relationship. This use of the slave metaphor has also left a trace in rabbinic literature, in a story about Rabbi's writing of a letter to Antoninus, his Roman emperor friend.

The political usage of the slave metaphor seems to have been a common ancient phenomenon which appears in Graeco-Roman rhetorics and historiography and was adopted by Philo, Josephus, and the rabbis. Political subjugation under a foreign ruler was described as slavery, irrespective of the actual enslavement of the population. In his *Legatio ad Gaium* Philo presents Jews as the rightless slaves of the Roman ruler. He advocates a submissive attitude: to rebel against the powerful overlord would be hopeless and stupid. This attitude stands in contrast to that of the rebel leaders in Josephus' writings who are unwilling to accept servitude without fighting against the Romans, but it resembles Josephus' version of Agrippa's view. Josephus himself adopted the political use of the slavery metaphor but was opposed to the anti-Jewish Graeco-Roman depiction of Jews as a 'nation of slaves'. After two failed revolts against the Romans rabbis seem to have lost all hope for an early end to Roman subjugation. They expected the 'yoke' of slavery to be removed by God at the end of times.

Numerous slave parables transmitted in rabbinic literature, especially in Midrashim, employ slavery metaphors for theological reasons. In king parables the king stands for God and the slaves (and sons) for human beings in their relationship to him. The parables thematize various issues such as the slave's observance or non-observance of the king's orders or his attachment to or escape from his master. The king's son and slave are sometimes contrasted with each other, illuminating different facets of the relationship between God and humankind. The

king/God can appear as the strict master and the loving father and these traits are different aspects of the same relationship. The predominantly negative presentation of the slave pedagogue is striking. He is usually shown as leading the son astray and as threatening the son's or the king's life. The rabbinic authors of these parables may have used them to criticize (religious?) leaders of whom they disapproved and who abused their power over the community.

Ancient Jewish religious discourse on slavery was closely connected with and based upon the Exodus experience. The Exodus became the paradigm for liberation from different types of slavery. For Philo, Egypt became a symbol of bodily desires which could be overcome by striving for wisdom. In the Testament of Joseph self-control is presented as the basis for redemption by God. Human self-liberation (from passions and desires) and liberation by God are viewed as complementary here. After 70 CE rabbis did not take the Exodus experience for granted but searched for reasons for Israel's worthiness of redemption. Some rabbis alluded to the patriarchs' merits in this regard, others stressed Israel's virtuous behaviour in Egypt. Rabbis may have associated Egypt with Roman subjugation. By contemplating the meaning of the Exodus experience they may have tried to understand the political situation of their own time and to uphold the hope for future redemption.

The Passover seder was the annually recurring ritual remembrance of the Exodus experience. After the destruction of the Temple in 70 CE rabbis transformed the ritual from a communal sacrifice to a family meal. This transformation also added more individualized meanings to the communal event. One's own identification with the Exodus experience became a central aspect of the commemoration.

In contrast to ordinary meals, slaves were invited to participate in the seder. Unlike the Roman Saturnalia, where slaves were served their masters' food before having to serve their masters dinner, the Passover seder would, ideally, unite masters and slaves at the same table. Yet more practical concerns seem to have eventually caused rabbis to exclude those slaves who were needed for table service. Would the (probably high-standing) slaves who shared the meal with their masters experience a glimpse of their future liberation? One may assume that for them the seder had a more than symbolic significance. Although criticism of the institution of slavery was not part of the seder ritual, the ritual itself can be seen as a symbolic enactment of human equality.

Conclusions

ANCIENT Jewish slavery has to be studied in the context of slavery in Graeco-Roman society. Such a study enables us to determine whether and in what regard Jews differed from Romans and early Christians in their discourse about and practice of slavery. The preceding chapters examined whether ancient Jewish literary sources reveal different attitudes towards slaves and indicate a different treatment of slaves from Graeco-Roman sources. As pointed out at the outset, the socio-economic conditions in which slavery develops tend to be similar in many societies, whereas the specific configuration of slavery varies from one society to the next.

What needs to be emphasized here is that we are unable to reconstruct a historically accurate picture of slavery in ancient Jewish society. The available sources do not enable us to write the history of Jewish slavery in antiquity. The ancient authors who deal with the issue or allude to it are not interested in slavery for its own sake but generally mention it only in passing to convey their particular messages, be they philosophical (Philo), historiographic (Josephus), or legal (rabbis). All of the ancient writers took slavery for granted as part of the social and economic fabric of the society in which they lived. They were not slaves themselves but freemen who wrote from the economically secure position of male members of the middle or upper strata of society. Even if not all of them owned slaves themselves, they identified and sympathized with those who did. Their thinking and writing was necessarily aimed at the literate, slave-owning, and largely urban members of ancient Jewish society, that is, at the intellectual and socio-economic elite.

Since neither Philo, nor Josephus, nor the rabbis were interested in providing a historically accurate picture of Jewish slavery in antiquity and few non-literary, epigraphic, or archaeological sources exist, we are unable to determine the proportion of slaves within ancient Jewish

society and the ratio of originally Jewish and non-Jewish slaves. What the sources do suggest, however, is that slavery was an important aspect of the everyday life of Jews in both the land of Israel and the Diaspora in Hellenistic and Roman times: Jews owned slaves and Jews were employed as slaves by Jewish and non-Jewish owners. Even if slavery existed alongside other types of labour and agricultural slavery decreased in late antiquity, slaves continued to be used both in agriculture and in the household throughout the period under investigation here. The literary sources show that slaves did not have an economic function only; they were also necessary for the maintenance of upper-class status: the impoverished member of a distinguished family would lose the respect of his peers if he was slaveless.

More interesting than the question of numbers and more appropriate with regard to the material at hand are the rhetorics of slavery in antiquity. How does the ancient Jewish discourse on slavery compare with the already much investigated Graeco-Roman discourse on the topic? What is striking are the great similarities in the literary representation of slavery in ancient Jewish and Graeco-Roman society. To name only a few of these similarities: in both Jewish and Graeco-Roman society slaves were considered nameless outsiders whose origins were irrelevant. They were legally defined as property over which the owner had total authority. As such they could be resold, exploited, and physically punished without recourse to legal remedy.

Such general similarities are probably due to certain basic socio-economic factors which governed all slave systems in antiquity. Slaves were entirely dependent on their masters. They lacked any links to their family of origin. Their masters viewed them as 'blank slates' which they could imprint and use as extensions of their own identity. Ancient Jews lived in a cultural context where such basic denominators of slavery were taken for granted. There is no evidence that they tried to change this situation by, for example, granting slaves the right to continue their pagan practices or allowing them to sue their masters in court. Such changes would have clearly put the Jewish slave owner at a disadvantage. Since we can assume that slave-owning Jews of the upper strata of society had regular contacts with Greeks and Romans and were most open to the influences of Graeco-Roman culture, one can easily understand that their slave-owning practices would have resembled those of their non-Jewish peers.

Like Graeco-Roman writers, neither Philo, nor Josephus, nor the rabbis were generally opposed to slavery. They considered slavery necessary for the proper functioning of society. Slaves are seen as an indispensable element of the (household) economy. By accomplishing certain basic tasks of everyday life they would enable their master to devote his time to higher pursuits, whether philosophy, politics, or Torah study. Although physical labour seems to have been viewed more positively in Jewish than in Graeco-Roman society, and although some rabbis seem to have worked in various professions themselves, they would have preferred to devote their time to Torah study rather than to more mundane pursuits. As members of the upper strata of society Philo and Josephus will have been used to being surrounded by slaves. One may assume that they were able to devote their time and energy to philosophy and historiography because of the slaves who worked for them.

The main sources of slaves in both Hellenistic and Roman times were prisoners of war. Jews enslaved the inhabitants of conquered territories during the Hasmonean and Herodian wars and they were also taken captive themselves by foreign rulers, especially during the first and second revolts against Rome. One may assume that in the first and second century CE the slave markets of Syria–Palestine were flooded with Jewish war captives and that slave prices were relatively low. Others who had lost their land during the revolts or had to pay high taxes to the Romans had to enslave themselves or their children in order to survive. Traditions in the gospels and in rabbinic literature provide a vivid picture of the plight of debt slaves, who became totally dependent on their creditors. While Jews were probably less prone than Romans to abandon their children when overcome by poverty, the sources nevertheless suggest that child exposure did exist in Roman Palestine. The bad economic situation after the revolts will also have increased the number of bandits who attacked people on the road and seized them in order to sell them as slaves and prostitutes. Altogether then, one may assume that in the first and second century CE Jewish slavery was at its height both in Roman Palestine and in Roman Italy. In the following centuries, when the first generation of slaves had died and others were released, fewer slaves may have been available, but natural reproduction and import from abroad will have ensured that the pool of slaves was constantly refilled.

Slaves were bought and sold at fairs as well as through individual agreement amongst masters. Like Roman jurists rabbis were concerned about fraudulent sales and stipulated that the buyer had to be informed about possible defects and offences at the time of the sale. One may imagine that slaves were treated like cattle at such fairs, the physical examination being especially humiliating. That no Jewish slave sale documents have survived cannot be considered a convincing argument against the existence of the slave trade amongst ancient Jews. Perhaps no formal document was required, the transfer of money in front of witnesses being considered a valid transaction by itself. The very fact that later Byzantine imperial legislation prohibited the purchase of Christian slaves by Jews indicates that Jews continued to buy slaves in late antiquity. Amoraic rabbis legitimized the buying of Jewish and gentile slaves at gentile fairs but were opposed to Jewish owners selling their (circumcised) slaves (to non-Jews) at these occasions.

Slaves had certain advantages over other types of labour: they were always available; they could be used for any task and any type of work; their annual maintenance costs were lower than the hire of day labourers; they might reproduce themselves; once they were old or sick they could easily be dismissed. To lease one's land to tenants would probably be the easiest way to operate large landholdings, but the tenants would keep a share of the income and might cheat the landlord if they were not properly supervised.

The available sources do not allow us to determine the proportion of slaves versus other sources of labour within the ancient Jewish economy. Whether there was any development in the use and functions of slaves from Hellenistic to Roman and from early Roman to later Roman-Byzantine times can only be hypothesized. That rabbinic literature mostly deals with slaves in domestic environments may be due to urban rabbis' encounter of slaves in those environments. Whether literary references to slaves' functions are representative of slaves' actual role in ancient Jewish society is similarly uncertain; but the evidence from other provinces can serve as a corrective, and the Jewish literary sources' focus on domestic slavery agrees with what we know about slavery in Roman Italy and elsewhere in late antiquity. Literary references to slaves' functions, however, can merely provide a glimpse at slaves' actual role within society.

Since mass slavery did not exist in Hellenistic and Roman Palestine, the percentage of slave owners will have been lower than in Roman society of imperial times. All of the slave owners mentioned by Josephus belong to the Herodian family or are members of the upper strata of society. In rabbinic literature few rabbis are associated with slaves. Although there seems to have been a certain increase from tannaitic to amoraic times, one may assume that only wealthy and prominent rabbis owned slaves. For others, students seem to have performed some of the same services. Libanius and Augustine suggest that the ownership of at least a few slaves was mandatory for a member of the urban intellectual elite. Within Jewish society this view would have primarily applied to the patriarch and a few prominent rabbis who had more or less frequent contacts with Greeks and Romans, but not necessarily to ordinary rabbis who supported themselves as merchants and artisans and could not afford such luxuries.

Ancient Jewish literature shows that Jewish slave owners shared certain general prejudices against slaves with their Graeco-Roman counterparts. They saw slaves as potentially dangerous both with regard to their property and their life. Slaves were believed to be lazy unless their master forced them to work; they were seen as thieves eager to steal their masters' property; they could even kill their master or his heirs or engage in plots against them. The punishment of slaves was considered legitimate, even if the evidence against them was thin. Josephus indicates that slaves were always the first to be tortured and executed when the master was harmed. Rabbis took the master's right to physically punish his slave as self-evident. Numerous slave parables use the image of the slave pedagogue or nurse who, instead of caring for and nurturing the master's offspring, brings havoc upon the family. All of these depictions of slaves are based on slave owners' anxieties—the slave was a stranger who had access to the most intimate and private realms of the family—and perhaps also on the awareness that the exploitation of other human beings could not be without negative consequences.

Yet ancient Jewish literature also transmits the image of the beloved slave, who was a close friend and confidant of his master. Josephus, for example, alludes to homoerotic relationships between members of the Herodian family and some of their slaves. Rabbinic stories employ the figure of the worthy slave who was a 'disciple of sages' eager to engage in Torah study. Funeral inscriptions which masters set up for their (freed)

slaves indicate that a close and affectionate relationship between masters and individual slaves did occur sometimes. One may assume that such relationships would most likely develop between masters and their well-educated assistants and secretaries, that is, in an urban domestic context, rather than between masters and farmhands in the countryside.

Although ancient Jewish writers took slavery for granted and considered it a necessary element of their everyday life, they sometimes advocated mild treatment of slaves and tried to protect slaves from the overt cruelty of their masters. Such recommendations seem to be based on biblical traditions according to which Israelite slaves are to receive a preferential treatment. Some traces of the biblical distinction between Jewish and non-Jewish slaves are evident in exegetical contexts but they are generally absent in Jewish texts of Hellenistic and Roman times. Philo's proposition to treat slaves leniently is connected with his (Stoic) distinction between physical and spiritual slavery. Since those whose bodies are enslaved may be on a spiritually higher level than free Jews, and since political and socio-economic pressures may be responsible for enslavement, slaves should ideally be treated like friends and equals. Rabbis were opposed to the humiliating treatment of slaves who were used to enable a luxurious lifestyle. They did not share the Roman notion of masters' authority of life and death over their slaves. Both Greek Jewish writers and rabbis seem to have been opposed to the idea of natural slavery, which was often directed against Jews in antiquity.

In Jewish as in Graeco-Roman households the employment of slaves had a direct effect on relationships between family members. One may imagine that Josephus was not the only member of the upper strata of Jewish society who employed a Greek-speaking slave tutor for his children. The use of slave nurses and pedagogues could estrange children from their parents. Therefore one may assume that parents tried to ascertain that the slave educators shared their own educational and moral values. Like slaves, the wives and minor children were economically dependent on the male head of the family. This economic dependence also had repercussions in other areas of daily life. The *paterfamilias* had absolute authority over the other members of the household, to the extent that he could even decide to sell or abandon a child. Women were not considered full members of the Jewish community as far as halakhic observance, the ability to be counted in the prayer quorum, and public recitation of the Torah were concerned.

Similarities in their dependent status may have created a certain solidarity amongst women and slaves, while at the same time increasing their competition for the householder's attentions and favours.

Slaves were sexually exploited in both Jewish and Graeco-Roman society. The phenomenon that masters would sleep with and produce children with their slaves is taken for granted by both Jewish and Roman writers. The Hebrew Bible already knows of the slave concubine, the girl sold by her father to be the mistress of another man. The biblical patriarchs used slave women to increase their offspring, irrespective of their wives' feelings. In fact, women are even said to have given their handmaids to their husbands and were reprimanded when they expressed anger and jealousy. The texts clearly represent male authors' wishful thinking. In contrast to the earlier biblical writers' inclusivist attitude toward slaves, rabbis tried to guard the boundaries of the nuclear Jewish family. They may have tolerated men's sexual relations with their female slaves but were opposed to mixed marriages and unwilling to grant the offspring of slave women other than slave status. That respected men's sexual liaisons with slaves were denounced and criticized, especially when more serious love relationships developed and when the slave was suspected of profiting from the relationship, is also evident from Josephus' writings. Female slaves were doubly ostracized: they were outsiders qua being slaves and qua being female. While male freedmen could become prominent and respected members of Jewish society (cf. Severus in Hammat Tiberias), freedwomen were seen as impure and promiscuous, a reputation which will have made it difficult for them to find free marriage partners, unless they married fellow-freedmen or were liberated and married by their masters.

In late antiquity, when agricultural slavery had declined, slaves seem to have continued to be used in business. The detailed discussion of slaves as business intermediaries in both rabbinic and Roman legal sources indicates that this was an important role which probably only specially trained and educated slaves would occupy. For the masters the arrangement was advantageous because of slaves' ambiguous status before the law. They functioned as extensions of their masters, but if they committed crimes their masters were not necessarily liable for damages. Although the term *peculium* does not appear in Jewish sources, the phenomenon that slaves would conduct business with

their masters' property and sometimes be allowed to maintain part of the proceeds was known to rabbis as well.

Despite the biblical manumission laws it is unclear whether manumission was practised more in Jewish than in Graeco-Roman society of antiquity. Already in biblical times the manumission of Israelite slaves in the seventh or Jubilee year seems to have been an ideal rather than reality. Rabbinic exegetical attempts to harmonize the contradictory biblical rulings suggest that the issue had a theoretical value at that time. The lack of distinction between Jewish and non-Jewish slaves in Hellenistic and Roman times would have made the biblical rulings meaningless for contemporary practice. Like their Roman counterparts Jewish slave owners would have used the prospect of manumission as an incentive to ensure slaves' diligence and loyalty. That they would generally not be willing to manumit even a 'worthy' slave is suggested by the rabbinic discussion of R. Gamliel's wish to manumit his slave Tabi. Rabbis even advised against redeeming Jewish slaves from Romans at a price higher than the purchase price. They seem to have been concerned with maintaining the status quo 'for the good order of the world'. The ruling that slaves sold to gentiles or to people abroad should automatically become free would have been impossible to enforce. It reflects rabbis' concerns about Jewish or Jewish-owned slaves' exposure to idolatry, a concern shared with Christian religious leaders of late antiquity.

Ancient Jewish literary sources do not only reflect the realities of slavery. Slavery seems to have been such a common part of everyday life that it was also used metaphorically in the religious, social, psychological, and political realm. Since biblical times Jews had identified themselves with slaves before God as their only master. This metaphor, which put emphasis on the necessity of human beings' obedience to God, is expanded in rabbinic parables which thematize the relationship between the king/God and his slaves. The two aspects of God's strictness and loving-kindness towards his people are illustrated by comparing his behaviour to two of his slaves or to his slave and his son. Throughout ancient Judaism the image of God as a slave master was used as a standing metaphor which was complemented by the image of God as the loving father. Both images were derived from the sphere of the Jewish household and indicate the significance of family relationships in ancient Jewish theological thinking.

Slave imagery also pervaded other areas of ancient Jewish life. In the opening sections of petitionary letters the sender would introduce himself as the 'slave' of the status higher addressee, that is, he humbled himself before his patron in order to obtain certain goods or services. This practice seems to have been so pervasive that it left traces in the Elephantine documents from the fifth century BCE as well as in late antique rabbinic stories. Like the Stoics Philo would use the slave metaphor to denote a certain psychological state: a person's 'enslavement' to his passions and emotions, or to lovers and material goods. This state was the opposite of what the philosopher tried to achieve, namely *sophrosyne* or peace of mind. The wise man's independence of desires allowed him to make the right decisions and to devote his time to the real good. Philo believed that by striving for wisdom even slaves could become spiritually free. The distinction between physical and spiritual freedom was also adopted by early Christian thinkers but does not seem to have been embraced by rabbis, for whom physical enslavement was incompatible with Jewish monotheism.

Furthermore, political subjugation is described as enslavement in ancient Jewish literary sources. Philo, Josephus, and the rabbis all identified the very fact of Jewish subjugation under the Romans with slavery, irrespective of the actual enslavement of parts of the population. Whereas the rebels favoured a militant position, hoping to overthrow Roman rule, Philo, Josephus (at the time of his writing), and the rabbis considered such efforts vain and useless: the Romans were so powerful and had already subjugated so many nations that accommodation with them was the only solution. After two military defeats rabbis had lost all hope for a political change in the near future. They expected the end of foreign rule to be brought about by God in messianic times.

The hope for an eventual liberation from Roman dominion may also have been part of the Passover celebration after 70 CE. Rabbis transformed a ritual which focused on the Passover sacrifice into a commemoration of the Exodus within the context of a ritualized family meal. Each participant's individual identification with the liberation experience of the Exodus generation was of central significance. At least those slaves who were not expected to serve at the table were allowed to share the meal with the rest of the family. Theoretically the Passover rite symbolized human equality before God, but whether it actually increased masters' inclination to manumit their slaves or to treat them

more mildly during the rest of the year stands to reason. The fact that at least some slaves dined together with their masters seems to have distinguished Passover from the Roman Saturnalia, where slaves and masters dined consecutively. Yet it probably did not involve all slaves but only the most high-standing domestics who were especially close to their masters.

The study of slavery in ancient Judaism shows how basic socio-economic phenomena created far-ranging similarities in Jewish and Graeco-Roman society. Ancient Jewish writers addressed much the same issues which also concerned Graeco-Roman legal experts, philosophers, rhetors, and politicians. Did the Jewish religion play a significant role in changing attitudes toward slaves and slavery? Obviously the Torah was one of the most important references for post-biblical Jewish writers' interpretation of the conditions of their own times. The Bible already warned against an overly harsh treatment of slaves. It legitimized debt slavery and the sale of children by those who experienced poverty. Yet conditions and attitudes had also changed and later Jewish writers had to adapt to these changes. For example, differences in religious and national origin were not respected by slave owners in Hellenistic and Roman times. The pool of slaves became increasingly mixed through dislocation and mixed procreation. The denationalization of slaves led to a lack of distinction between originally Jewish and non-Jewish slaves. What mattered most in both Jewish and Roman society was the status of the slave versus the freeman.

Another important change from biblical to Hellenistic and Roman times was the increased focus on the nuclear family, whose purity and boundaries had to be preserved. The large extended family with many potential heirs was no longer the ideal. Therefore the offspring of slave women were no longer integrated into the family but ostracized by being attributed slave status. Finally, increasing urbanization and the decrease of large estates seem to have played a role. In late antiquity slaves were mostly employed in the households of more or less wealthy urban families. Jews who lived in the cities of Roman Palestine or abroad seem to have shared their non-Jewish neighbours' attitudes towards the necessity of domestic slaves. Those who could afford them would have enjoyed the privileges of their service. The patriarch would have been one of the foremost slave owners in Jewish society and some wealthy rabbis would have followed his model.

Would the fact that Jews experienced political subjugation under Greeks and Romans have had an impact on their attitude towards slavery? Would those who were politically enslaved sympathize with actual slaves within society? For some leftist radicals this may have been true. Josephus reports that Simon b. Giora withdrew to the hills and proclaimed liberty for slaves, thereby gathering an army of slaves and brigands around him (*Bell.* 4. 508). But in general, intellectuals and members of the upper strata of society, such as Josephus himself, considered such acts despicable since they upset the proper order of a society built on the hierarchical distinction between slaves and free people.

One may assume that especially in the first and second centuries CE many ancient Jews would have experienced enslavement themselves or had relatives, friends, or acquaintances who were enslaved by the Romans. Despite rabbinic admonitions to redeem Jewish war captives such redemption will have been difficult in practice. The new Roman owners will not have easily relinquished their rights or liberated slaves at a low price. Yet rabbis warned fellow-Jews against redeeming slaves at a price higher than the purchase price, since this might cause Romans to take even more captives. It is also questionable whether the precarious economic situation would have allowed many Jews to redeem their enslaved co-religionists. Those who were wealthy enough and could afford to do so may have been loyal to the Romans. They may have considered other Jews' enslavement a just punishment for their resistance to the powerful overlords.

Unfortunately, we do not possess any literary sources written by Jews who were enslaved, whether as war captives or for economic reasons. On the basis of what we know of slavery in antiquity, we must assume that they would have suffered greatly from the humiliation, isolation, and physical violability of their condition. Funeral inscriptions from Roman Italy suggest that some Jewish war captives who were brought to Rome as slaves accommodated quite well to Roman culture. A certain Claudia Aster, for example, married an imperial freedman and decided to live in Naples with him. We do not know whether and to what extent she continued to adhere to Jewish practices or joined a Jewish community. It seems, though, that she was able to accommodate to a Roman way of life while at the same time remaining proud of her Jerusalemite origin. Other Jewish freedmen seem to have founded synagogues in Rome or

returned to Roman Palestine after their manumission. Originally pagan slaves who were circumcised by their owners may have eventually joined the Jewish community as well. The Severus inscription from Hammat Tiberias seems to provide an example of a wealthy freedman of the patriarchal family who became the foremost donor and a prominent member of the local synagogue community.

The phenomenon that the large majority of ancient Jewish literary sources on the subject come from Roman Palestine rather than the Diaspora, with the exception of Egypt perhaps, is probably not accidental. Practically all Jewish writings from Hellenistic and Roman times derive from the eastern Mediterranean region, whereas (with the exception of Paul, who became a Christian) no literature written by Jews who lived in Roman Italy, Spain, or Asia Minor has come down to us. This will partly be due to the fact that the majority of Jews lived in Roman Palestine at the time and that Jews had minority status abroad. One may assume that Jewish slave owners in Roman Italy adapted so well to Roman slave-owning practices that they differed little from their non-Jewish counterparts. Jews who were enslaved in the Diaspora would have lacked any opportunity to publish and circulate their experiences, even if they were highly literate in Greek or Latin and served as their masters' secretaries. We do possess evidence from Babylonia transmitted in the Babylonian Talmud, but that evidence needs to be studied on its own in the context of slavery in Persian society.

The problems connected with the dating of the sources do not allow us to construct a clear-cut chronological framework and to reconstruct a historical development of Jewish slavery in antiquity. We can determine only broad changes from biblical to post-biblical, from Second Temple to rabbinic, and from tannaitic (first and second century CE) to amoraic (third to fifth century CE) times. Such developments have already been mentioned above: for example, the change from the biblical distinction between Israelite and Canaanite slaves to the denationalization of slaves in Hellenistic and Roman times; from the biblical integration of children with slave women to the later rabbinic and Roman protection of the nuclear family; the predominance of domestic slavery in the sources of late antiquity. In general, rabbinic sources of the first four or five centuries CE provide the most detailed discussion of slavery in ancient Jewish society. They deal with much the same issues which Roman

jurists address and indicate that slavery was as important to Jewish as to Graeco-Roman leaders and intellectuals in antiquity.

The present examination of slavery in ancient Jewish society provides a new perspective on the discussion of ancient slavery. On the one hand, there are striking similarities between the discussion of slavery in Graeco-Roman and ancient Jewish society. On the other hand, Jewish writers added specific nuances to the subject which have to be understood against the background of earlier Jewish religious traditions and the specific social, political, and economic situation in which Jews lived. The Jewish practice and discussion of slavery in antiquity was not entirely identical with slavery in Graeco-Roman society. Contextual variations allow us to elaborate the specific configuration of 'Jewish' slavery in antiquity, although slavery itself was not a Jewish but a common and widespread ancient phenomenon.

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